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State of Montana

Report to the Legislature

June 1993

## Performance Audit Report

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### Juvenile Justice in Montana

Department of Family Services

Montana Youth Courts

Montana Board of Crime Control

Juvenile justice is generally considered a system, which by definition implies regularly interacting, interdependent groups which form a unified whole. Based upon our review of the juvenile justice structure, Montana does not currently have a "system." Rather, Montana has a structure composed of interrelated, but independent entities which do not interact on a regular basis and could be working more effectively towards a "unified whole." Additionally, current reforms are occurring without a formal planning process.

We identified areas for improving youth court operations, DFS management over corrections-related activities, and management information on juvenile justice operations.

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greater efficiency and economy. In performing the audit work, the audit staff uses audit standards set forth by the United States General Accounting Office.

Members of the performance audit staff hold degrees in disciplines appropriate to the audit process. Areas of expertise include business and public administration, statistics, economics, computer science, communications, and engineering.

Performance audits are performed at the request of the Legislative Audit Committee which is a bicameral and bipartisan standing committee of the Montana Legislature. The committee consists of four members of the Senate and four members of the House of Representatives.

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# **Office of the Legislative Auditor**

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## **Performance Audit**

### **Juvenile Justice in Montana**

**Department of Family Services**

**Montana Youth Courts**

**Montana Board of Crime Control**

Members of the audit staff involved in this audit were Pamela M. Boggs, Tom Cooper, Dave Gould, Angie Grove, C. Susan Jensen, Joe F. Murray, Kimberly A. Stenberg, Kris Wilkinson, and Mike Wingard. Additional information on the audit can be obtained by contacting the Office of the Legislative Auditor at (406) 444-3122.



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# Office of the Legislative Auditor

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June 1993

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The Legislative Audit Committee  
of the Montana State Legislature:

This is our performance audit of juvenile justice in Montana. This report contains information for the legislature concerning system administration and outcomes. Responses from the administrative entities are contained at the end of the report.

We wish to express our appreciation to personnel throughout the system for their cooperation and assistance.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Scott A. Seacat", with a long, sweeping horizontal line extending to the right.

Scott A. Seacat  
Legislative Auditor



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## **Appointed and Administrative Officials**

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### **Department of Family Services**

Hank Hudson, Director

Allan Davis, Administrator, Juvenile Corrections Division

### **Montana Supreme Court**

J.A. Turnage, Chief Justice

### **Montana Board of Crime Control**

Edwin L. Hall, Executive Director





# Report Summary

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## Introduction

The Legislative Audit Committee requested a performance audit of the Montana juvenile justice system. We examined the involvement of the judicial district youth courts, the Department of Family Services (DFS) Juvenile Corrections Division (JCD), including Mountain View School (MVS) and Pine Hills School (PHS), juvenile transition centers, and juvenile parole, and the role of the Montana Board of Crime Control (MBCC).

Audit objectives included identification and evaluation of activities, such as youth court probation, youth detention, and DFS juvenile corrections and parole functions. Currently, Montana has a juvenile justice structure which is composed of interrelated, but independent entities. Due to lack of formalized, overall administrative oversight, the various entities have evolved with little regard for the needs of the system as a whole. The deficiencies noted throughout this report have affected the entire structure. As a result, over the past several years there has been a growing polarization between the entities.

Our audit recommends changes in each of the entities' activities, as well as in future planning and administration of juvenile justice in Montana. The following sections summarize the results of our performance audit.

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## Youth Court Activities

The Youth Courts in Montana were created in the 1940s as a part of each judicial district. Youth court judges appoint a chief probation officer and deputy officers as required. A combination of local (county/district) and DFS funding provides for youth intervention and diversion resources for youth treatment and/or placement by the youth courts.

Our findings suggest the youth courts make an active effort to divert youth from further involvement with the juvenile justice system. However, there are substantial differences across the state regarding probation officer training, collection of management information used to determine program activity and effectiveness, and youth court examination of parental contribution toward youth placement/treatment.

## **Report Summary**

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### **Probation Officer Training Needs to be Standardized and Monitored**

Our review of probation operations noted that probation officers in many judicial districts are not receiving statutorily-required training. This has contributed to significant variation in the administration of youth intervention, treatment and diversion programs. Youths are not treated consistently and programs such as victim compensation vary based on how the program is administered. A uniform training curriculum for probation officers could promote consistency of youth court activities statewide. Developing a training curriculum and requiring attendance at certified training could increase probation officer awareness of successful youth diversion alternatives and promote consistency in youth court activities.

### **Examination of Parental Contributions for Youth Care should be Emphasized**

The youth courts are statutorily required to examine a parent or guardian's financial ability to contribute toward the costs for care, commitment, and treatment of a youth committed to DFS. Based on our review of youth case files and interviews with youth court judges and probation officers, we noted such determinations are made infrequently. We recommend the Supreme Court and DFS establish parental contribution procedures to insure youth court compliance with the law requiring documented consideration of parental contributions.

### **Youth Courts should Develop Management Information**

We requested data on probation office activities such as number of youth referred, types of crimes committed, and success of programs. In most judicial districts we found the youth courts do not develop or compile such information. There is no comprehensive information on intervention, treatment, or diversion activities, nor is any internal evaluation of program effectiveness conducted. Without this information, youth courts cannot evaluate which programs are the most effective or whether more/less resources should be directed toward diversion and intervention efforts. We recommend the Supreme Court in unison with the youth courts work towards a management information system which includes data on youth court programs.

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### **Youth Detention Activities**

The Montana Board of Crime Control (MBCC) and Youth Justice Council (YJC) are responsible for administering federal and state juvenile justice grants and the federal requirements regarding youth detention. State compliance monitoring of federal detention requirements are met through the use of the Juvenile Probation Information System (JPIS). The five regions authorized by the legislature submitted annual plans by July 1, 1992, and began receiving state Lottery funding for detention center operations. Since detention usage and budget information was only available for the first part of fiscal year 1992-93, we did not address the effectiveness of Montana's juvenile detention activities.

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### **Juvenile Corrections Division Must Increase Management Emphasis**

The JCD is responsible for management oversight of the two juvenile correctional facilities, parole officers and transition centers. Within the JCD, we identified areas of needed improvement involving management controls, Interstate Compact of Juveniles, court-ordered restitution, training, youth transportation, and Youth Placement Committees.

There is an overall lack of mission statements and goals for the division and its subordinate entities. This resulted in deficiencies regarding measurable objectives and outcomes, consistent policies and procedures, comprehensive management information, and records management throughout the division's operations. Other management control concerns related to administration of the Interstate Compact on Juveniles (the program used to transfer juvenile supervision between states), and recovery of court-ordered restitution by correctional facilities and parole officers. The division also lacked direction for administering training programs and conducting the transportation of juveniles to/from correctional facilities and for conducting staff background investigations.

Due to the lack of division goals and measurable objectives, comprehensive policies and procedures, and management information, it was difficult to determine the success of program outcomes and consistency of treatment activities. We believe there has been a lack of management emphasis on development of comprehensive management controls since the correctional

## **Report Summary**

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facilities and parole were placed under DFS supervision. Our recommendations included increased JCD emphasis on management controls and establishment of comprehensive planning and evaluation procedures.

### **DFS Youth Placement Committees are not Used**

During our review of juvenile justice-related activities at DFS, we also noted DFS personnel were not complying with the statutory requirement to have Youth Placement Committees review and recommend youth placements prior to a youth's referral or commitment to the department. Our findings during both this audit and prior audits of DFS suggest Youth Placement Committees have little or no value. We believe DFS should either fully comply with the related statutes, or seek legislation to eliminate or modify the Youth Placement Committee function.

---

### **Juvenile Correctional Facilities Issues**

The purpose of Mountain View School (MVS) and Pine Hills School (PHS) is to provide rehabilitation and treatment, rather than punishment for the youths committed to juvenile correctional facilities. During our audit work at MVS and PHS, we identified weaknesses in management controls, treatment-related activities, education programs, and security.

### **Management Controls**

We found neither facility has measurable goals and objectives or complete policies and procedures. Further, we found limited collection of management information for both treatment and education programs, and no evaluation of operational effectiveness. In addition, we identified a lack of timely performance appraisals and available formal training plans. We made a variety of recommendations to JCD officials regarding the emphasis on the development of management controls to assure statutory compliance and to establish consistent operational guidelines.

### **Treatment-Related Activities Need Better Documentation**

We reviewed 25 youth case files at each facility to identify documented treatment activities and the associated decision-making process. We noted files lacked required progress reports and there was disparity in the amount of detail included in counselor notes. We found the individual treatment plans, developed by the counselors identified needs and goals, but lacked documentation of methodology for achieving the goals or



determining treatment effectiveness. As a result, it was difficult to determine case status, treatment decision-making, and facility release criteria. We recommend correctional facility officials develop standards for treatment plan development and case file documentation to ensure treatment consistency, as well as the ability to measure effectiveness.

PHS/MVS officials base youth release decisions on length of commitment specified in court orders, placement opportunities, treatment status, and on-going behavior. However, our review of files indicated limited documentation of actual release criteria. Specifically, we could not determine if youths met goals identified in treatment plans or if officials were consistent and equitable in release decisions. We recommend DFS officials formalize release criteria and document release decisions to assure consistency and equity.

### **Education Programs Need DFS Analysis**

During examination of youth case files at the correctional facilities, we found over one-third of our sample lacked school records from the school previously attended. The Youth Court Act specifies youth committed to a correctional facility must be accompanied by school records. However, youths are routinely committed without the required records. When records are not received in a timely manner, there is a potential for duplication of testing and the possibility of inappropriate instruction. We recommend PHS/MVS officials determine and establish procedures to assure records availability in support of educational testing and treatment programs at the correctional facilities.

Correctional facility officials also do not collect any comprehensive student academic or vocational information and do not assess student needs. In addition to lack of routine overall assessment of student needs, data is not compiled or analyzed regarding credits earned, types of classes taken, or number of youths graduating. There has been some consideration for changing from the current educational programming, which could include 12-month schooling and/or more vocational course work. Before these changes, we recommend DFS officials begin formal analysis of education programs by establishing the elements of a management information system and determining student educational needs.

## **Report Summary**

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In 1991, the PHS industries program was created to increase vocational training opportunities for the students. Since inception, program management has been assigned to personnel with a multitude of other responsibilities and consequently the program has had little active management. We recommend PHS officials assess the value of the industries program and, if a future need exists in conjunction with other treatment and education programs, then active administration should be provided.

### **MVS Security May Need Expansion**

Although PHS has full-time 24-hour security staff, MVS does not. With the addition of boys to MVS, the loss of available secure housing for girls, and the structural limitations (security-related) of the existing housing, effective staff coverage in the three cottages is a concern. We recommend MVS officials examine current and future staffing requirements to determine whether existing staff effectively address potential safety and security concerns.

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### **Juvenile Parole Issues**

The JCD juvenile parole officers are responsible for the supervision of youths released from juvenile correctional facilities until formally discharged from DFS. The division has six full-time parole officers and three part-time officers to supervise youth on parole. Two of the full-time parole officers also supervise transition centers in Billings and Great Falls for youth on parole who cannot return to their families or other hometown placements. The purpose of the centers is to provide a "transitional bridge" between a correctional facility and community living by developing independent living skills while continuing necessary treatment. During our review of juvenile parole and transition centers, we identified concerns with management controls, detention, and parole violations.

### **Management Controls**

The JCD exercises limited supervision of parole activities, including transition centers. We noted lack of goals and objectives, inconsistent policies and procedures, and non-compliance with performance appraisal requirements. Additionally, management information is not collected and there is no evaluation of program or treatment activities. We recommend JCD officials develop supervisory controls to assure



## Report Summary

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compliance and operational consistency among the parole officers and transition centers.

### **Parole Officer Detention Usage**

We determined parole officers have used regional juvenile detention facilities not only to hold youths until transported to a correctional facility, but also to punish youths not complying with parole conditions. The Youth Court Act specifies, however, the element of retribution should be removed from juvenile justice. We recommend JCD officials develop and distribute detention policy to parole officers as soon as possible.

### **Return for Parole Violations Procedures Need Analysis**

When juveniles violate parole conditions, the department can revoke parole and return the youth to a correctional facility. We noted the lack of policy for parole violation returns which addresses specific types of criminal activity or misbehavior warranting return. We also identified inconsistencies between parole officer use of the return for parole violation capability, including revocations for status offenses, such as school absenteeism. We recommend JCD officials evaluate the parole violation procedures and define criteria for assuring consistent return of youth to PHS and MVS.

### **Discharge Criteria should be Examined**

Youths released from PHS and MVS are on parole until the age specified in the commitment court order, usually age 18 or 19, regardless of the crimes committed or subsequent behavior. The department does not have procedures to routinely consider discharge from parole before they reach 18 or 19. As a result, youth remain on parole officer caseloads and are the responsibility of the state. JCD officials should establish policy and procedures to assure scheduled evaluations of youths' need to remain under DFS supervision and begin discharge procedures for those youth who no longer appear to need DFS supervision.

### **Transition Center's Purpose and Programs Need Examination**

We found considerable variation between the two transition centers' operations. We further noted limited independent living skills training programs and essentially no treatment programs, even though the correctional facility staff often recommended continued therapy and counseling. We recommend JCD officials analyze the training and treatment needs of youths assigned to the transition centers and establish programs consistent with overall treatment objectives developed at the correctional

## **Report Summary**

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facilities. In addition, JCD officials should determine and compile management information to assess programmatic and staff effectiveness.

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### **Miscellaneous Issues**

#### **Federal/Advocacy Group Investigations**

During calendar year 1992, PHS and MVS were inspected/reviewed by representatives from the U.S. Department of Justice. The investigations resulted from alleged violations of youths' constitutional rights and concerns about treatment. We reviewed the findings of both reports and conducted follow-up to assess the adequacy of PHS responses. The investigations pointed out concerns at both facilities with mental health services, discipline, environmental/structural concerns, and inadequate resources. We found the majority of the findings were valid. PHS officials responded to the investigation by closing structurally deficient lodges, increasing security personnel, repairing/modifying structures, and changing student-staff ratios and treatment philosophy. We determined the PHS effort generally resulted in compliance with the overall intent of the federal concerns. We accompanied the federal inspection team during their review of MVS and have reviewed their formal findings. Due to the timing of the report issuance, we were unable to evaluate the MVS response to the findings.

Also during 1992, representatives from various youth advocacy groups, including the Montana Legal Services Association made several visits to PHS to interview students and staff, review files, and make general observations about facility operations and conditions. As a result of their visits, they identified a number of areas where they believed improvements could be made. Their findings closely reflect what was identified by the federal investigation team. Based on our review, PHS officials have attempted to address the advocacy groups' concerns.

#### **DFS Needs Juvenile Corrections Management Information**

DFS does not presently have a management information system capable of addressing juvenile justice needs. The comprehensive system planned by the department, including juvenile justice, has undergone several budgeting and developmental changes since originally approved by the 1991 Legislature. Current plans

indicate an operational system, developed primarily to verify compliance with federal medicaid requirements, will be available by July 1995. DFS cannot specify when juvenile corrections operational data will be included in the management information system. As a result, the department will continue to have difficulty gathering information to assess juvenile corrections operations.

**Juvenile Probation Information System (JPIS)  
Reliability should be  
Increased**

Federal requirements for youth detention compliance monitoring is met in Montana through use of the MBCC's JPIS data collection system. The MBCC required all judicial district youth courts to participate in JPIS as of July 1, 1992. Previously, participation was voluntary and the database (and subsequent annual Reports on Crime in Montana) reflected inaccurate juvenile justice statistics. While a variety of improvements have been initiated recently, reliability has not been assessed and the database does not include information on DFS use of youth detention. We recommend establishment of formal procedures to assure comprehensive statewide detention data. We also recommend the MBCC seek statutory authority for requiring youth court and DFS participation in JPIS data collection.

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**Overall System Administration Needs Formal Direction and Planning**

Our audit findings suggest a need for comprehensive management controls and management information throughout the juvenile justice system. Our specific recommendations are directed toward increasing system control by formalizing procedures among the individual components. Standardizing probation officer training curriculum, establishing measurable treatment goals and objectives at correctional facilities, and developing operational procedures for parole officers are all actions we believe will result in improvement in system control. We also believe establishing requirements for management information for assessing and evaluating system components and program operations will improve the quality of programs and consistency of juvenile justice in Montana. Finally, DFS should initiate a more formal, specific, and broad-based planning effort in regards to department-initiated system reforms. The formal plan would detail how the reforms will be implemented and funded, contingency options, and what criteria will be used to measure the reforms' impact/success.

## **Report Summary**

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The juvenile justice system in Montana is in a state of transition. Reforms proposed by the department will impact the youth courts, and youth court acceptance or rejection of specific changes will affect local budgets, as well as detention centers, correctional facilities and parole officers. Montana does not have an administrative entity with authority to determine roles and assure a coordinated system. We believe the Governor is in the best position to establish the future role of DFS in juvenile justice, as well as help direct the system's overall future. Increased executive branch direction and support for juvenile justice will also help define what is needed to develop comprehensive management information which can then be used to measure the success of the juvenile justice system in the future.



# Chapter I - Introduction

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## Introduction

The Legislative Audit Committee requested a performance audit of Montana's juvenile justice structure. This report presents information and recommendations pertaining to our audit of the system components, including youth courts and the Department of Family Services (DFS) Juvenile Corrections Division which includes Pine Hills School, Mountain View School, the juvenile transition centers, and juvenile parole. Additionally, we address the roles of the Montana Board of Crime Control and Youth Justice Council.

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## Audit Objectives

The objectives of the performance audit were to:

1. Review and compare Montana's juvenile justice structure to other states.
2. Identify and evaluate the youth courts' involvement with juvenile justice including:
  - how youths are referred to youth court probation officers.
  - use and documentation of detention activities by probation officers and youth courts.
  - procedures and activities of probation officers concerning diversion/intervention programs.
  - use of psychological evaluations in the diagnosis, treatment and disposition of youths.
  - types of dispositions and their impacts.
3. Identify and review the utilization of Youth Placement Committees.
4. Review the role of the Montana Board of Crime Control (MBCC) and the Youth Justice Council (YJC) in juvenile justice.
5. Examine operational aspects of the state's juvenile correctional facilities including:
  - appropriateness of youth commitments.
  - assessment and establishment of treatment plans.
  - availability of education, treatment, cottage life, and recreation programs.

## **Chapter I - Introduction**

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6. Review correctional facility management controls such as:
  - goals and objectives.
  - policies and procedures.
  - management information.
7. Evaluate federal and advocacy group investigations of Pine Hills School (PHS) and Mountain View School (MVS) programs and facilities.
8. Examine the role of juvenile parole officers who are responsible for youth supervision upon release from PHS and MVS. We evaluated management controls in place for the parole function.
9. Examine the overall administration of the DFS portion of the juvenile justice system by the Juvenile Corrections Division (JCD) including determining type and amount of management controls, plans for change, and state funding.

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### **Audit Scope and Methodologies**

The audit was conducted in accordance with government auditing standards for performance audits. During preliminary audit work, we gathered information on juvenile justice systems in other western states for comparison to the Montana system. Additionally, we reviewed state and federal statutes relating to juvenile justice and youth placement activities to determine compliance issues. This section addresses audit scope and methodology for the following juvenile justice components:

- youth courts.
- Youth Placement Committees.
- Juvenile Corrections Division.
- correctional facilities.
- juvenile parole.

We based our youth court audit work on interviews with youth court judges and probation officers, and review of case files maintained by probation officers. We requested probation officers select case files for our review which indicated extensive or long-term youth involvement with the juvenile justice system.

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### Review of Youth Courts

By using case file names selected at probation offices, we were able to track youths from probation through their stay at the correctional facility and into their supervised parole period. This allowed us to evaluate the types and consistency of youth treatment and supervision employed from the time a youth was initially referred to the juvenile justice system through discharge from DFS supervision.

We visited 19 of 20 judicial districts to interview probation officers and youth court judges. We reviewed 150 case files in 10 districts to determine how youths were referred to youth courts, whether detention was used, and if so how it was documented. We also examined probation officer's use of intervention and diversion techniques, psychological evaluations, and how they determined the types of youth treatment and/or placement required. Concurrently, we evaluated probation officer approaches to supervising and enforcing both informal and formal court imposed probation conditions to determine effectiveness of probation programs.

We reviewed statutory requirements for control of court-related juvenile records and assessed compliance throughout the juvenile justice system. We evaluated detention criteria, reviewed documentation, and examined procedures used by probation and parole officers to make detention decisions and comply with statutory requirements regarding youth detention and probable cause hearings. We determined availability of juvenile detention facilities and examined the regional detention planning process required by the legislature. We reviewed the role of the MBCC and the YJC in collecting data, and monitoring/reporting of state compliance with federal detention mandates.

We examined youth court criteria used for formal probation, out-of-home placement or treatment, and commitment to correctional facilities. We also examined probation access to and use of state and federal foster care/medicaid funds for placement of juveniles.



## **Chapter I - Introduction**

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### **Utilization of Youth Placement Committees**

We reviewed statutory language requiring Youth Placement Committees. We then reviewed youth court and correctional facility documentation to verify their use. We interviewed youth court judges, probation officers, and DFS staff to determine the perceived effectiveness of Youth Placement Committees.

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### **DFS Involvement in Juvenile Justice**

Our evaluation of DFS involvement in juvenile justice included extensive interviews with regional administrators, correctional facility staff, juvenile parole officers, transition center staff, and various JCD officials. At each stage in the system, we examined the division's documentation of youth treatment and supervision, as well as applicable policies and procedures for conducting treatment and supervision. Additionally, we identified the JCD's recent efforts to reform juvenile corrections. Our findings regarding the department's role in juvenile justice are contained in Chapters V through VII.

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### **Evaluation of Juvenile Corrections Division**

We examined the administrative and management oversight provided by the JCD to PHS, MVS, juvenile parole officers, and transition centers to determine the efficiency and effectiveness of juvenile corrections programs. We considered division management controls in place including: goals and objectives, policies and procedures, and management information.

We reviewed various planning documents and attended meetings of a juvenile corrections task force established by the JCD administrator. We also examined a consultant's report of the juvenile population in Montana correctional facilities. We interviewed youth court judges, probation officers, and department regional administrators, as well as division staff, to determine how acceptable the planning efforts are to officials involved with administering juvenile justice.

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### Examination of Correctional Facilities

The scope of our audit work at PHS and MVS included reviewing youth commitments relative to treatment programs offered. We focused on availability of programs and case counselor documentation of treatment progress, rather than the diagnostic or clinical quality of individual cases. At each facility, we reviewed 25 youth case files, selected from files initially reviewed at the probation level, for documentation of treatment activity and release decision criteria. We also considered impacts of treatment program activities such as education, vocation, recreation, cottage life, medical, and security on youths. We reviewed a 1982 U.S. District Court Consent Decree which identifies specific operational requirements for PHS. The consent decree detailed what changes would be implemented by PHS to answer alleged civil rights violations. The decree required PHS to establish formal policies and procedures for nearly every aspect of a youth's stay at PHS. The consent decree provided for periodic evaluation of PHS compliance by the Montana Legal Services Association. The majority of current PHS goals and objectives and policies and procedures resulted from the 1982 Consent Decree provisions.

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### Correctional Facility Re- Organization

While conducting our review of program activities, both PHS and MVS began revising treatment approaches. For example, both facilities are in the process of revising how staff classify and treat youths, and both facilities populations are changing. PHS is downsizing its population levels from a cap of 110 youths in 1992 to 80 in 1993. During the summer of 1992, MVS began providing services to a small number of boys, and in 1993 plans to expand services to boys via a new 90-day observation and assessment program.

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### Analysis of Juvenile Parole Function

We examined juvenile parole caseloads, youth contacts, and case file documentation to determine extent of supervision and level of support provided by juvenile parole officers to youths released from correctional facilities. In addition to reviewing services provided to youths on parole, we reviewed procedures for accepting a youth released from a correctional facility and for returning a youth to the facility as a result of a parole violation.

## **Chapter I - Introduction**

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Juvenile transition centers in Billings and Great Falls were evaluated concerning availability and effectiveness of ongoing treatment initiated at the correctional facilities. Additionally, we examined extent and availability of independent living and life skills programs which allow hard-to-place youths an opportunity to return to communities.

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### **Recent Federal Investigations**

In January 1992, representatives from the U.S. Department of Justice visited PHS to investigate complaints of violations of youth's civil rights resulting from staff actions and facility conditions. The investigation resulted in a September 1992 formal report to the Governor indicating five areas or conditions which the report stated potentially violated student's constitutional rights. These deficiencies were in several areas including:

- security and supervision of youths.
- fire safety, sanitation, and building hazards.
- mental health care.
- use of discipline.
- access to telephone and writing materials.

The same group of U.S. Justice Department representatives also spent three days at MVS in October 1992. A formal report issued in February 1993 indicated similar concerns to those noted in the PHS report. At MVS, we observed the federal team's investigation activities and attended meetings regarding their observations.

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### **Advocacy Group Investigation**

The Montana Legal Services Association in conjunction with the Youth Law Center, Montana Advocacy Program, and Board of Visitors has also been interviewing staff and students at PHS, as well as conducting observations and reviewing case files during the past year. In a letter to the PHS Superintendent in August 1992, the advocacy groups detailed facility concerns similar to those identified in the federal report.

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### **Criteria Used in Conducting the Performance Audit**

To conduct the audit we used federal and state statutes, administrative rules, and various other criteria. The following sections outline the other criteria used for our evaluation of youth courts, correctional facilities, and parole function.

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### **American Corrections Association Standards**

In cooperation with the federal Commission on Accreditation for Corrections, the American Correctional Association (ACA) has developed standards for detention and training schools. The standards provide administrators of juvenile programs with the opportunity to voluntarily develop facilities and operating procedures which are in accordance with nationally recognized criteria. In Montana, neither DFS juvenile corrections facility has sought ACA accreditation. However, officials in both facilities acknowledge the validity of the ACA standards. As a result, where state or federal statute did not specify criteria for operating policy and procedures, we referred to ACA standards to determine the acceptability and effectiveness of existing correctional facility operations and programs.

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### **Guidelines for Use of Secure Care**

JCD officials asked the Center for Study of Youth Policy, a non-profit organization composed of nationally recognized researchers and consultants in juvenile justice, for assistance in reviewing the use of the juvenile correctional facilities. As a result, the center completed a study concluding that by using their guidelines to make secure care placement decisions, only 135 of 419 (32 percent) youths in PHS or MVS (from March 1991 to March 1992) should have been placed in the DFS correctional facilities. The study indicated the remainder should have been placed in less secure facilities or in community-based programs. The study did not review or evaluate the availability of community-based programs in Montana.

As a result of these findings, and increasing problems with housing and treating youths committed by youth courts, JCD officials began examining alternatives. Center for the Study of Youth Policy representatives met with a JCD-created task force of persons involved with juvenile justice to explain their findings and suggestions for alternatives. The center's staff basic



## **Chapter I - Introduction**

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conclusions were Montana continues to rely on the correctional facilities as the primary method for treating/dealing with juvenile delinquents. Yet, both their studies and other national studies indicate correctional facility treatment is not effective or cost-beneficial. They stated the emphasis of juvenile treatment should be on community-based services. Although they acknowledge a certain number of individuals cannot be appropriately placed in community programs due to their crimes, by using a formal decision-making process to determine placement, youth courts could better direct placement of youths.

The secure care guidelines utilize seriousness of the youth's most recent offense, and total number of offenses on a youth's record to make placement decisions. This decision-making process is typically used prior to a youth court judge determining a youth's disposition.

We reviewed the report issued by the Center for the Study of Youth Policy and considered their findings as we examined youth court probation and juvenile corrections activities. The proposed incorporation of the guidelines in Montana is addressed in Chapter V.

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### **Review of Montana Board of Crime Control and Youth Justice Council**

We reviewed the roles of the MBCC and YJC, which are established by Governor's Executive Order, to assess their involvement with the juvenile justice system. The 18 member MBCC includes representatives of government agencies and private organizations related directly to prevention and control of crime. In addition to their duties with the criminal justice system, the MBCC is responsible for promoting public safety by strengthening juvenile justice coordination and performance.

The 17 member YJC includes local and state officials involved with juvenile justice, as well as citizens involved with the related aspects of mental health, education, and Indian affairs. The YJC is responsible for administering requirements of the federal Juvenile Justice and Delinquency Prevention (JJDP) Act. The YJC specifically monitors juvenile detention activity through collection of data from a statewide system, known as the Juvenile Probation Information System (JPIS).

We attended a MBCC workshop titled "Assisting Montana's Youth into the 21st Century." The workshop established goals and objectives which could provide the foundation for improvements in youth services and the juvenile justice system. The YJC sponsored the workshop which was attended by local officials involved in youth service activities, DFS personnel, private youth care service providers, and youth representatives concerned with juvenile justice.

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### **Juvenile Movement to the Adult Criminal Justice System**

As part of our review of the juvenile justice process, we addressed youth movement into the adult criminal justice system following discharge from the juvenile justice structure. Most youths are discharged from the DFS based on the age specified in the court order committing them to the department, usually age 18 or 19. In order to examine youth movement to the adult system, we first sampled DFS records of youths committed to PHS or MVS and discharged by the department between 1986 and 1990.

Next, Department of Corrections and Human Services officials compared our sample list of 100 juveniles to data from the Adult Corrections Information System, which is the information system used to track adults from probation through parole from a correctional facility. We found 30 percent of our sample of juveniles discharged from DFS supervision had become involved with the adult criminal justice system.

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### **Data Limitations**

Government auditing standards require disclosure of any constraints imposed on the audit approach because of data limitations. We were hindered in achieving our juvenile justice audit objectives because of limited documentation. This data limitation also adversely affects management of juvenile justice programs by youth courts, the MBCC and YJC, and DFS officials including: correctional facility staff, juvenile parole officers, regional administrators, and JCD staff. The following outlines areas where we encountered limited data and what types of information were missing:

## Chapter I - Introduction

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Probation officers - data on referrals to youth court probation including age, sex, and race; types of intervention/diversion programs; program success rates; youth recidivism rates; and intervention/diversion and treatment program costs.

MBCC/YJC - data on statewide juvenile crime activity, detention usage by facility and type, and youth court disposition activity including placement, commitments and treatment.

JCD - data on overall effectiveness and efficiency indicators for correctional facilities, transition centers, and juvenile parole, including treatment and education/vocation program costs.

The data limitations and their effects are discussed in detail in Chapters III through VIII.

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### Compliance

As part of the audit we examined compliance with state and federal statutes and administrative rules relating to the juvenile justice system, including youth courts, MBCC, and DFS juvenile corrections activities. We found areas of noncompliance throughout the juvenile justice structure which are addressed in Chapters III, V, VI, VII, and VIII.

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### Management Memorandums

During the audit, we asked officials of the Supreme Court of Montana, MBCC, and DFS for written responses to selected audit issues. In some cases, the issues did not have a significant impact on juvenile justice and we categorized them as management memorandum issues. Although we advised the appropriate agency or department of these issues, they are not covered further in the report, but are identified below:

- limited use of substitute teachers at PHS.
- lack of an in-school detention and discipline capability at PHS.
- confusion about the statutory language regarding the monitoring of juveniles committed to PHS/MVS for sex offenses and arson following their release.



## Chapter II - Background

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### Introduction

Our audit work focused on identification of juvenile justice components and the decision-making process used as youths move through the structure. This chapter provides an overview of the two major components: Judicial District Youth Courts and Department of Family Services (DFS). Additionally, a section describes how youth courts and the Juvenile Corrections Division (JCD) are funded. Finally, there is a section addressing juvenile justice systems in other western states.

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### Overall Observation of Juvenile Justice Operations

According to the Webster's dictionary, a system is defined as "a regularly interacting or interdependent group of items forming a unified whole." Based upon our review of the juvenile justice system, Montana does not currently have a "system" as defined above. Rather, Montana has a structure composed of inter-related, but independent entities which are not integrated in terms of working towards or forming a "unified whole."

At present, there is no active, unified administrative oversight or review of the youth courts, correctional facilities, and juvenile parole function. Additionally, we found there is no accurate or comprehensive system-wide information regarding activities of the individual entities. Finally, while we noted various proposals and activities for system reform, these proposals/activities have occurred independently from other entities' activities and/or the changes have been done in such an informal manner, the changes suggest a lack of comprehensive planning. Chapter IX summarizes our audit findings concerning the existing juvenile justice structure in Montana.

The following figure illustrates the juvenile justice structure in Montana and the chapter location in which the various components are discussed.

## Youth Court Organization and Administration

## Montana Juvenile Justice Structure



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## **Chapter II - Background**

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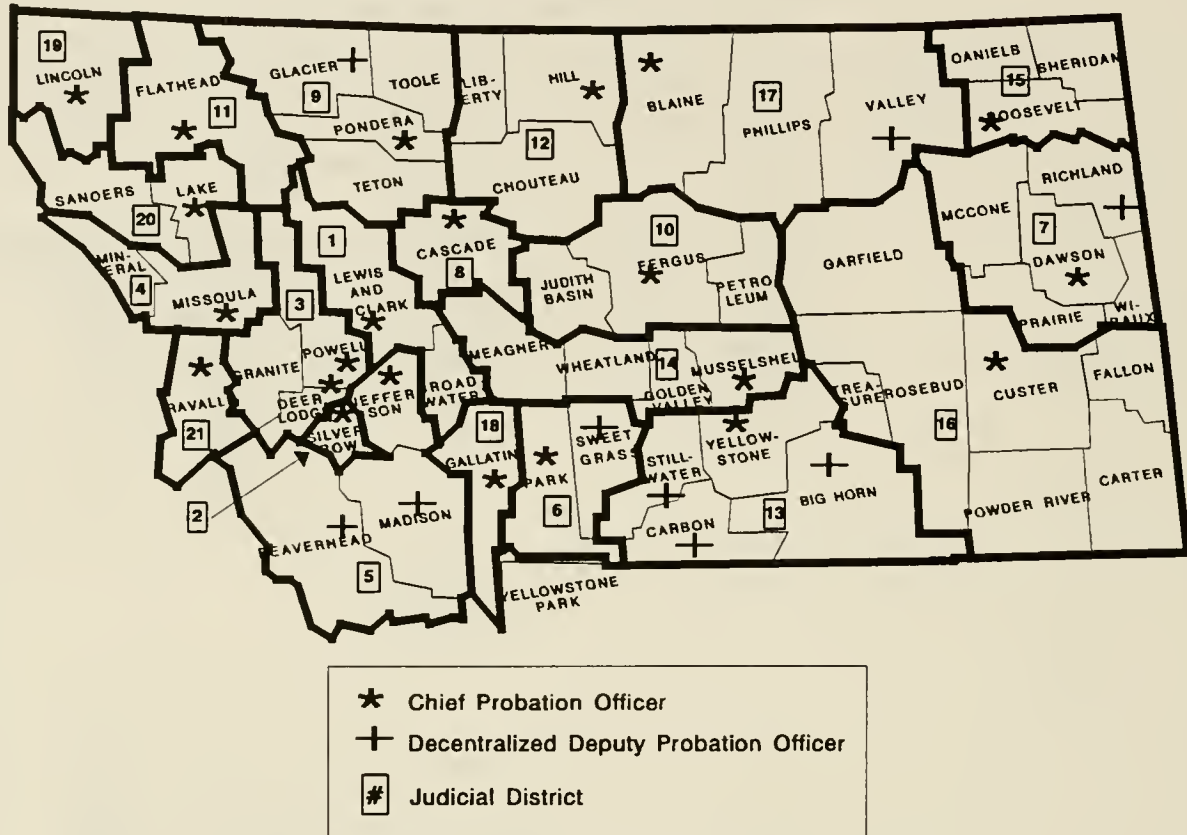
Each judicial district in Montana must have at least one judge designated as a youth court judge. There are several districts which have multiple youth court judges, where the judgeship either rotates or there is a designated chief youth court judge. In each judicial district the youth court judge appoints a chief probation officer and deputy probation officers as required. The chief probation officer must meet specific statutory requirements relative to education and experience.

In some districts, the chief and deputies all work out of a central office and travel to other district locations when necessary. In other districts, the chief is in one town and the deputies are located in other towns. The following map illustrates the judicial districts and location of chief and deputy probation officers.

## Chapter II - Background

Figure 2

Chief and Deputy Probation Officer Locations



Source: Compiled by the Office of the Legislative Auditor

At the time of our audit field work, there were 70 full and part-time probation officers in Montana.

Within youth courts, the probation officer has the earliest and most extensive contact with juveniles. The youth court judge only has contact if formal court proceedings are pursued because of the need for detention or because earlier youth intervention and diversion efforts by probation officers did not prevent further criminal activity or misbehavior.

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### **Youth Court Act Directs Approach to Juvenile Justice**

The purpose of the Montana Youth Court Act, as amended in 1991, is to preserve the unity and welfare of the family and provide for the care and protection of youths, while removing the element of retribution from the process. Judicial proceedings are intended to provide for a fair hearing and only separate the youth from family if separation is in the best interests of the youth or protects the community. Once a court obtains jurisdiction over a youth, it retains jurisdiction, unless terminated by the court or unless the proceedings are transferred to adult criminal court.

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### **Federal Statutes also Impact Youth Courts**

The amended federal Juvenile Justice Delinquency and Prevention (JJDP) Act of 1974, specifies guidelines for developing and implementing methods of preventing and reducing juvenile delinquency. The JJDP Act provides federal mandates intended to divert juveniles from the traditional institutionalism associated with the juvenile justice system. The MBCC and Youth Justice Council, both appointed by the Governor, are responsible for monitoring state compliance with JJDP Act requirements. The emphasis of the JJDP Act in recent years has been on the reduction of juvenile detention and removal of youths from adult jails. The role of the MBCC and the status of juvenile detention are discussed in Chapter IV.

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### **Youth Detention Facilities and Detention Activity**

In Montana, juvenile detention is a county responsibility. Effective July 1, 1992, the only secure detention facilities authorized for youths have been established regionally and include facilities in: Kalispell, Great Falls, Bozeman, Billings, Colstrip, and Troy. Additionally, several local communities have established holdover facilities that allow 24-hour nonsecure holdover.

According to regional detention reports, there were 423 instances of juveniles being held in secure juvenile detention facilities for three-fourths of fiscal year 1992-93. The number of youths held in adult jails totalled 157.

## **Chapter II - Background**

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### **Role of the Department of Family Services**

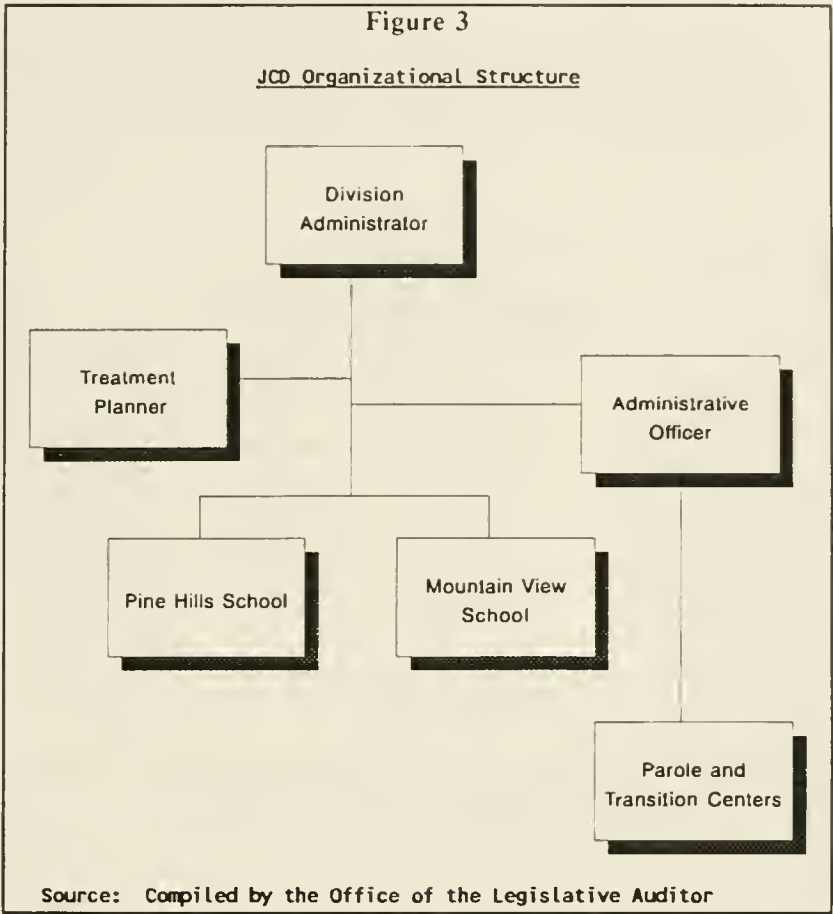
Upon a probation officer or youth court's decision to seek treatment and/or placement of a youth outside the home, DFS becomes involved due to its statutory funding of many youth intervention and diversion resources. Regional administrators are responsible for reviewing and approving requests from probation officers and juvenile corrections personnel who want to place youths in foster care, group homes, or residential treatment facilities.

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### **Juvenile Corrections Division**

The DFS Juvenile Corrections Division is administered by a division administrator and an administrative officer. In addition to these two FTE, the division includes a treatment planner responsible for determining youth classification and assisting with treatment program development. Division operational functions include the juvenile correctional facilities, juvenile parole, and youth transition centers. The following figure outlines the current JCD organizational structure.

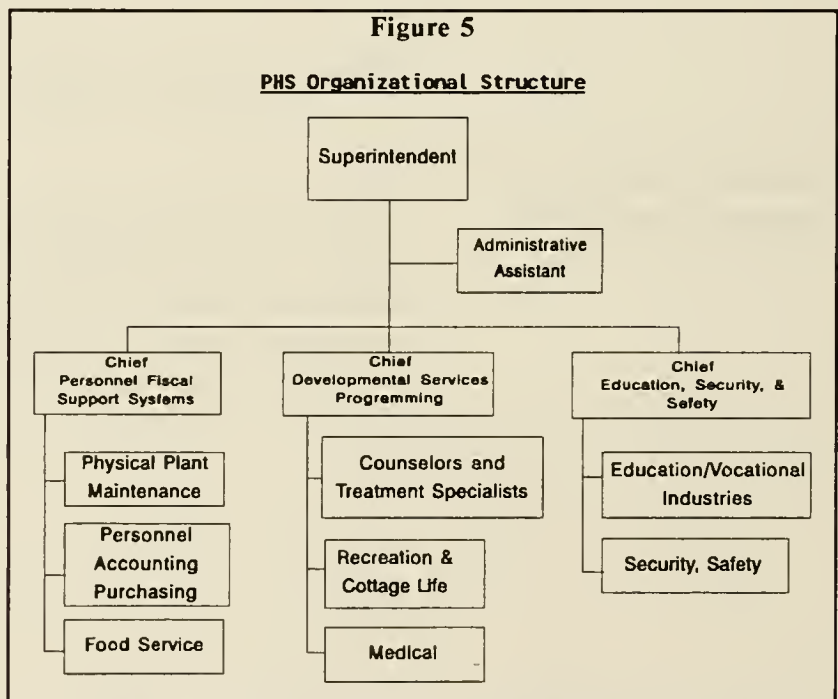
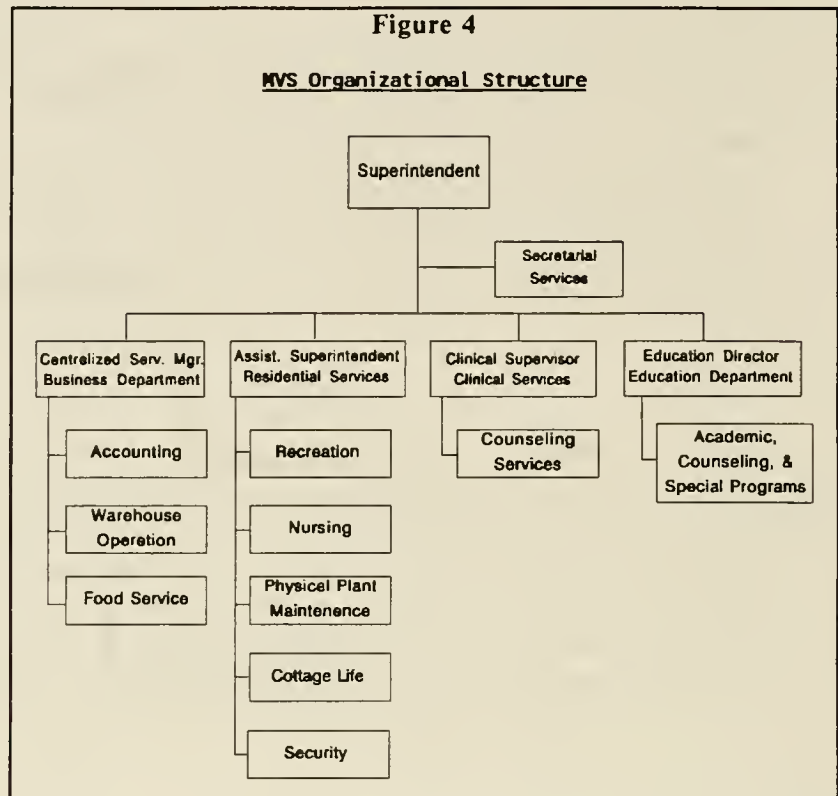




**Correctional Facility  
Organization and Staffing**

Organizationally, the facilities are administered by superintendents who report to the department's JCD administrator. Each facility is organized differently in terms of functional entities and personnel titles. The following figures outline each facility's current organizational structure and identify titles of key management personnel.

## Chapter II - Background



Source: Compiled by the Office of the Legislative Auditor

## Chapter II - Background

Each facility is staffed with personnel with similar responsibilities. Each facility has counselors, teachers, cottage life attendants, recreation specialists, nurses, maintenance personnel, etc. The following table shows a breakdown of staff by function for each facility.

Table 1		
<u>Authorized Full-Time Equivalents</u> (Unaudited)		
	<u>PHS</u>	<u>MVS</u>
Administration <sup>1</sup>	10.5	7.0
Food Service	4.0	4.5
Maintenance	11.0	4.5
Counselors	10.0	6.0
Medical	3.5	1.5
Education <sup>2</sup>	20.0	11.6
Security	8.0	6.0
Cottage Life	48.0	24.0
Recreation	4.0	2.0
Total	<u>119.0</u>	<u>67.1</u>
<sup>1</sup> Includes financial, personnel, and clerical.		
<sup>2</sup> Includes secretaries, counselors, and aides.		
Source: Compiled by the Office of the Legislative Auditor from information provided by PHS and MVS officials		

### Juvenile Aftercare

Upon release from a correctional facility, youths are placed in aftercare status. Until their discharge from DFS supervision, their activities are monitored by juvenile parole officers. The department has six full-time and two part-time parole officers. A map on page 86 denotes the location of the officers. In selected instances youths may be released to one of the department's two transition centers located in Billings and Great Falls. The purpose of the transition centers, managed by the parole officers in those locations, is to provide a "transitional bridge" between a correctional facility and a return to community living.

## **Chapter II - Background**

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### **Juvenile Justice Expenditures/Funding**

As noted, the two major components of juvenile justice in Montana are youth courts and DFS. The following sections explain how the courts are funded and show DFS revenues and expenditures.

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### **Youth Court Funding**

Montana's 56 counties comprise 21 judicial districts in which youth courts are part of each district's court system. During the course of our audit, there were 20 judicial districts in Montana; however, effective January 1, 1993, Ravalli County was established as the 21st District. Each county pays its portion of youth court costs based upon actual costs incurred in or on behalf of each county. If actual costs cannot be determined, the commissioners use each county's portion of total youth court workload in the district during the calendar year. Each January, the youth court judge establishes the portion of workload attributed to each county in the ensuing budget year.

A combination of state General Fund, local (county) government, and other state agencies fund district court costs. The state General Fund finances judge salaries, travel, and training expenses. Other operational costs, such as juvenile probation officer salaries, are financed by county mill levies, light vehicle taxes, and nontax revenues. These nontax revenues include licenses and permits, state reimbursement (for adult criminal cases only) and, if available, grant money. The district courts have also received state General Fund and federal Special Revenue money for court automation projects. We did not specifically examine or compile information on judicial district youth court budgets.

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### **Department of Family Services Funding**

The JCD is funded from General Fund, state Special Revenue, and federal Special Revenue moneys. state Special Revenue funds finance student canteen activity while federal Special Revenue funds are generated from federal boarders at the correctional facilities. The following table details expenditures for MVS, PHS, Aftercare, and JCD. Expenditures are funded with 89 percent General Fund and the remainder with Special Revenue Funds.

## Chapter II - Background

Table 2

Juvenile Corrections Expenditures  
(Fiscal Year 1991-92)

	<u>PHS</u>	<u>MVS</u>	<u>Aftercare</u> <sup>1</sup>	<u>JCD Admin</u>	<u>Total</u>
Expenditures:					
Personal Services	\$3,323,668	\$1,851,447	\$429,339	\$ 67,229	\$ 5,671,683
Operating Expenses	737,360	367,430	92,073	59,135	1,255,998
Equipment	11,434	12,128	1,157	551	25,270
Benefits & Claims		1,000			1,000
Totals	<u>\$4,072,462</u>	<u>\$2,232,005</u>	<u>\$522,569</u>	<u>\$126,915</u>	<u>\$6,953,951</u>

<sup>1</sup> Aftercare includes parole officers, transition centers, and Interstate Compact.

Source: Compiled by the Office of the Legislative Auditor from SBAS reports

### Other States Juvenile Justice Systems

During the course of our performance audit, we contacted six western states with rural populations to determine juvenile justice system administrative and operating procedures. We found substantial variation in the organization of juvenile justice systems in other states. The following chart identifies organizational elements of juvenile justice in Montana and the other states contacted.



## Chapter II - Background

Table 3

Information on Other States Juvenile Justice Systems

	<u>Idaho</u>	<u>New Mexico</u>	<u>North Dakota</u>	<u>South Dakota</u>	<u>Utah</u>	<u>Wyoming</u>	<u>Montana</u>
PROBATION ADMINISTRATION: State or Court	Court	State	Court	State	State	State	Court
YOUTH COURT:	Yes	Yes	Yes	Yes	Yes	Yes	Yes
CORRECTIONAL FACILITIES:							
Female		1		1		1	
Male		1		1		1	1
Coed	$\frac{1}{1}$	$\frac{1}{2}$	$\frac{1}{1}$	$\frac{1}{3}$	$\frac{3}{3}$	$\frac{1}{3}$	$\frac{1}{2}$
Total Number	1	2	1	3	3	3	2
POPULATION:							
Maximum	110	216	87	181	70	200	153
Avg. Daily <sup>1</sup>	107	250	77	179	70	134	150
Length of Stay (months) <sup>2</sup>	10	8	4.5	8	9	7	6
PAROLE ADMINISTRATION:	State	State	State	State	State	State	State
TRANSITION CENTERS:	Yes	Yes	No	Yes	Yes	Yes	Yes
INFORMATION SYSTEM:							
Statewide	Yes	Limited <sup>3</sup>	Proposed	Limited	Yes	No	Limited
Facility	Yes	No	Yes	Yes	Yes	Yes	No

Legend:

<sup>1</sup> Avg. Daily = sum of the average population in each facility combined.

<sup>2</sup> Length of Stay (months) = weighted average of the average length of stay in each facility combined.

<sup>3</sup> Limited = limited collection of data by separate entities not linked together.

Source: Compiled by the Office of the Legislative Auditor

All the states contacted have a specific youth court or at least some judicial districts with youth court judges to conduct juvenile hearings. Four out of the six states we contacted have probation under state administration unlike Montana which has probation under district court administration. All states contacted have parole under state administration. As part of the parole function, all but one state have transition centers to aid in the reintegration of youths from the correctional facilities back into their communities.

Youth correctional facilities in the other states contacted have an average length of stay ranging from 4.5 months up to 10 months.

## Chapter II - Background

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Of the 13 facilities in the 6 states contacted, 7 are coed facilities, 3 house male populations, and 3 house female populations. The states contacted have from 1 to 3 facilities, with a maximum population capability ranging from a total of 70 youths in all 3 facilities combined, up to 216 total youths in New Mexico's 2 facilities, although their actual population was exceeding their designated limit.

We inquired into the computerized management information systems of the other states. We noted substantial variation in the amount of information collected. For example, one state contacted has computer links with probation, detention, correctional facilities, and parole functions. Another state contacted did not collect management information at the time, but was in the process of instituting a data system for their detention facilities for the purpose of qualifying for federal detention funds. We also inquired whether correctional facilities kept computerized management information, and noted only Montana and one other state's youth correctional facilities do not compile management information.



# Chapter III - Youth Court Operations

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## Introduction

According to the 1991 Montana Board of Crime Control (MBCC) Annual Report on Crime in Montana, over 4,600 youths entered the juvenile justice structure, and youth courts and probation offices handled approximately 6,000 youth referrals associated with almost 7,800 criminal offenses. The 4,600 juvenile cases worked by youth court probation offices, constitute about 4 percent of the youth population in Montana. (See Chapter VIII for concerns about the reliability of the above referenced juvenile crime statistical report.) The following chapter describes the activities of juvenile probation officers and youth courts in Montana. The chapter ends with a discussion of issues regarding youth court operations.

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## Youth Court Origins

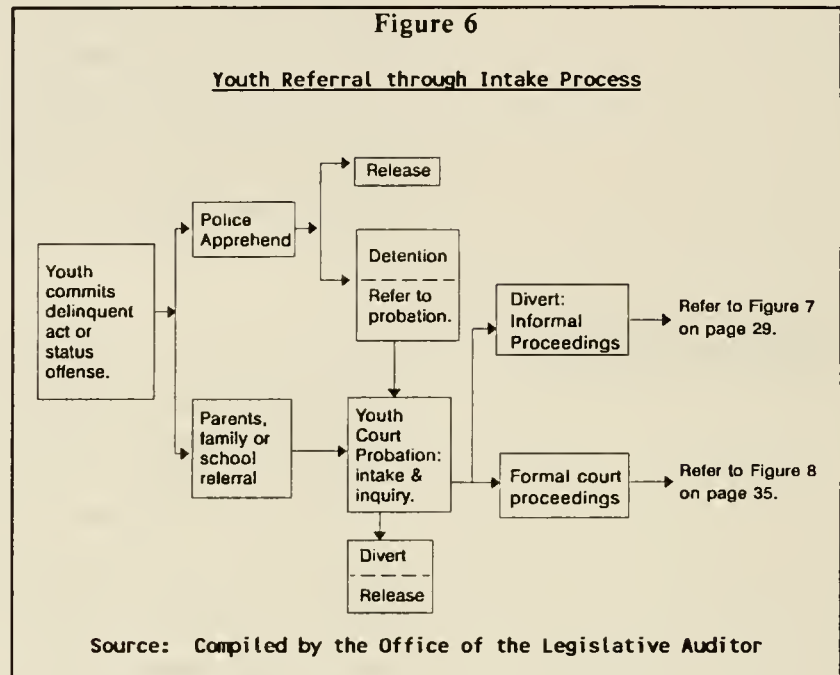
Juvenile justice in Montana had its origins in the early 1900's when legislation gave government the responsibility to intervene in the lives of wayward youths. In the early 1940's legislation created the juvenile court as a part of each judicial district in the state. This led to establishment of probation offices and the basic structure of the current juvenile justice system. The Supreme Court is the only agency with any oversight authority over the youth courts, based on Article VII, Section 2 of the Constitution of Montana which provides for the Supreme Court to exercise general supervisory control over all courts. The juvenile court was renamed youth court when statutory codes were changed in 1974.

While the youth court is part of the district court, its proceedings are not criminal proceedings. The youth court is a civil proceeding based on the concept of "Parens Patriae", which means the court will act as a parent of the child. Youths are found to be "delinquent" or "in need of supervision" but are not "convicted" of specific crimes in these proceedings. A youth may be found delinquent through judicial proceedings if the act committed would qualify as criminal if committed by an adult. Youths in need of supervision are those youths who commit an offense prohibited by law, but if committed by an adult would not constitute a criminal offense, eg., liquor violations or uncontrollable behavior.

## Chapter III - Youth Court Operations

### Youth Probation and Court Activity

In this section, we address youth court probation activities including: referral, intake, detention, informal and formal court proceedings, and disposition and placement. The following figure describes the process from referral through informal and formal court proceedings.



### Law Enforcement Referral and Probation Intake

Law enforcement personnel typically make referrals to the youth court probation officers. Parents and school officials may also refer youths to a probation officer. A referral by law enforcement usually results from alleged criminal activity or misbehavior. In most cases, law enforcement has conducted an initial investigation and the probation officer has received a copy of the investigation report when the youth is referred. Upon referral, probation officers establish a case file and determine the need for further investigation, detention, and/or intervention by the youth court. The probation intake can also result in immediate release, with or without follow-up probation supervision. The extent of supervision depends on the probation officer's assessment of parent or guardian's ability to control the



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youth's behavior. There are differences in when youth court probation officers conduct intake inquiries; however, most occur within two weeks of the referral.

We found individual caseloads for probation officers ranged from over 40 per officer in urban areas to 15 per officer in some rural districts. Referral activity along with the assigned caseloads more appropriately describes probation officer work load. In urban areas such as Missoula, Great Falls, and Billings, we noted 1,500-2,000 referrals per office are made to youth court probation each year, while in some rural areas referrals were less than 100.

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### Detention of Youth

A major step in the youth referral process is determination of need to detain. According to section 41-5-103, MCA, youth detention means holding a youth to ensure continued custody. In Montana, there are five options:

Secure detention - designed to physically restrict movements and activities of the youth until final court disposition.

Short-term detention - designed to physically restrict youth activities for up to 96 hours.

Holdover detention - designed for temporary detention, but not physically restricting supervision, which does not exceed 24 hours.

Nonsecure (shelter care)- designed to provide temporary non-physically restricting care.

Jail - although typically designed to confine adults accused or convicted of a criminal offense, these facilities may be used for temporary youth detention.

If immediate detention is necessary, the law enforcement officer will typically make the decision, and then contact the probation office as soon as possible. The youth may or may not be contacted directly by a probation officer at that time, depending on the offense. Statute provides the following criteria for deciding to detain a juvenile:

## **Chapter III - Youth Court Operations**

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- the youth's alleged offense is a serious crime as defined in the Youth Court Act.
- the youth is alleged delinquent and has escaped from a correctional or detention facility, violated a court order, pending court action and is likely to abscond, or there is a need to protect persons or property.
- the court has already determined delinquency and the youth is awaiting final disposition.

Within 24 hours of detaining a youth in secure detention, a formal court hearing that includes the youth and legal counsel is required. If probable cause is determined and continued detention is warranted, the law requires the filing of a petition for a court hearing to determine if the youth is a delinquent or a youth in need of supervision. The petition must be filed within seven days of the youth's detention. The Youth Court Act prohibits secure detention of a youth alleged to be a youth in need of supervision. A youth in need of supervision has typically committed status offenses, or offenses that if committed by an adult would not be crimes. Youths in need of supervision may be placed in nonsecure detention.

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### **Intake Results in Informal and Formal Proceedings**

The probation intake process can result in initiation of either informal or formal court proceedings. Based on investigation by law enforcement, the probation officer may decide to proceed with the case informally, or refer the case to the county attorney who determines whether to file a formal petition alleging the youth is delinquent or in need of supervision. Informal proceedings allow intervention by the probation officer, without involving the youth in formal court proceedings.

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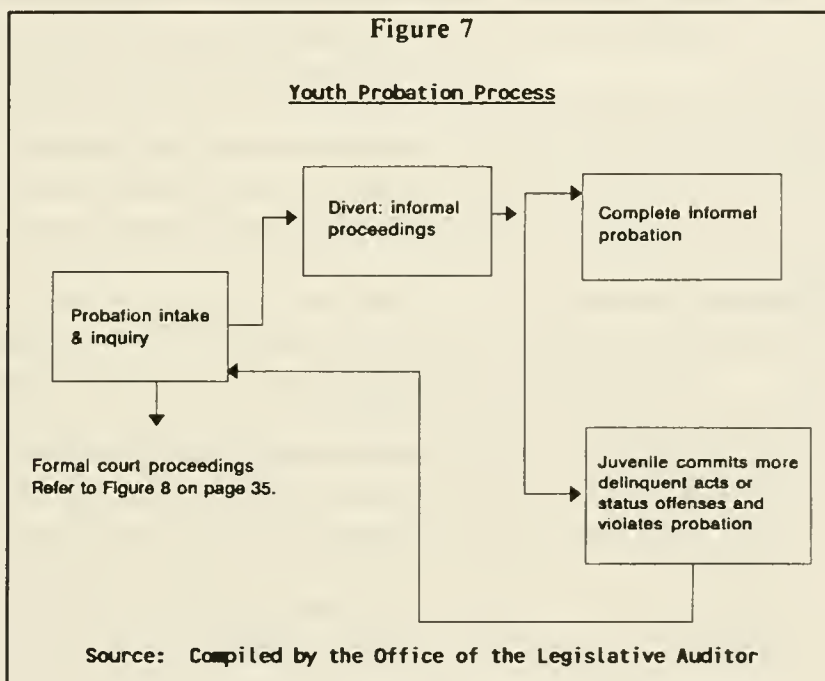
### **Informal Youth Court Proceedings**

Most youth referrals to probation officers are handled on an informal basis. If the probation officer handles the case informally, the youth may be placed on probation through use of a consent adjustment. This is a contractual arrangement signed by the youth, parents or guardian, and probation officer to reflect specific probation conditions such as probation officer contact frequency, curfews, association or nonassociation with specific peers, counseling, and school attendance. Other community-

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based intervention or diversion techniques employed by probation officers include: crisis intervention, shelter care, therapeutic counseling, chemical dependency treatment, and assistance in applying for job skills or vocational training programs. Among the 20 judicial districts, we found informal probationary periods ranged from 60 days to 18 months, depending upon the officer, the crime, and youth's prior involvement with the juvenile justice system.

The following figure describes the informal proceedings process from probation intake to release.



### Restitution for Criminal Activities

One diversion program used by probation officers is restitution, which is compensation of a crime victim by the offender. Restitution can be accomplished in three ways: monetary payment to the victim, direct service to the victim, and community service. Typically, consent adjustments include one of these requirements if the offense involves property damage, or in some cases, if the victim incurs medical costs.

### Monetary Restitution

We noted the majority of probation officers use monetary restitution as part of their informal probation intervention programs.

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Most probation officers have established restitution priorities for youth making payments. In some districts, out of pocket victim costs have a higher priority than insurance deductibles, and usually insurance company repayment has the lowest priority. For example, if a youth has damaged an automobile and repairs cost \$1,000, but the victim has a \$100 insurance deductible, many probation officers only require or pursue restitution to recover the victim's deductible. Both insurance companies and victims have the option of civil court proceedings for collecting damages not paid through restitution.

Probation officers use restitution in an attempt to hold offenders accountable and achieve juvenile acceptance of responsibility for their behavior. In order to make payments, youths usually have to work and a job may detract from other probation requirements such as counseling and school attendance. Probation officers stated they have to establish a balance between restitution and other probation requirements.

### **Community Service**

Community service restitution is another diversion tool. The variety of jobs for community service employed by probation is extensive: city park and municipal building maintenance, street cleanup, senior citizen and nursing home assistance, and Bureau of Land Management and Forest Service projects. We noted only about one-half of the youth court probation officers use community service as an intervention technique. Most probation officers indicated community service was a difficult program to administer because it not only requires arranging for the tasks the youth is to accomplish, but also requires supervision to ensure the youth works and the task is completed. Additionally, in order to protect a county against liability, the officers indicated a need to obtain worker's compensation insurance for each youth.

### **Direct Service to the Victim**

Restitution in the form of direct service to the victim is provided when the youth helps the victim repair property damage resulting from an offense. For example, if windows were broken, the youth could assist with window replacement. The victim's cooperation in regard to supervision is needed to make this form of restitution successful, and is therefore only used in selected cases.



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### Formal Youth Court Proceedings

If the case is referred by a probation officer to the county attorney, the county attorney determines if formal action is needed. If formal action is needed, a "leave to file petition", and court summons documents are prepared. A court hearing date is established where the judge reviews the various documents and may hear witness testimony, usually by law enforcement and/or probation officers. If the court decides there is reason to proceed with formal action, a date is established for the youth's court appearance. The case can be transferred to criminal court if the county attorney determines the youth is accused of statutorily specified serious crimes, and the youth court judge determines transfer is appropriate. This is a rare occurrence.

The youth may still avoid formal court proceedings at this point by agreeing to a consent decree, which imposes probation conditions. Failure to adhere to consent decree conditions is a court order violation which can be a delinquent offense.

If a consent decree is not agreed upon, the youth, parent or guardian, and their legal counsel must be present at the adjudication hearing. At the adjudication hearing, evidence is presented to determine whether the case is dismissed or whether the youth is deemed delinquent or in need of supervision. Typically, adjudication evidence is testimony by law enforcement personnel or probation officers and often includes the youth's admission of guilt. If the youth pleads innocent at the adjudication hearing, the youth may request a judge or a jury trial; however, jury trials are selected infrequently. Following the adjudication hearing, a date for the disposition hearing is scheduled; however, in some instances, the disposition hearing may immediately follow adjudication.

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### Evaluations of Youth Prior to Youth Court Disposition

As part of adjudication or as a condition of a consent decree, youth court judges may require a formal psychological evaluation prior to the disposition hearing. The evaluation's purpose is to identify specific behavior problems and associated treatment or therapeutic requirements. The results of the evaluation are included in a youth's social history.



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The evaluation includes psychological testing and observation, as well as observations of the youth's social and behavioral skills. Youth courts use programs offered by DFS as well as local services to obtain evaluations. The court uses the evaluation report, along with other disposition hearing information to match disposition with specific placement and treatment recommendations.

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### **Court Disposition and Placement of Youth**

Disposition evidence is presented to document the most appropriate disposition that will benefit the youth while protecting society, and is presented to the court in the form of a social history or predisposition report. The report is prepared and presented by the probation officer and supported by reports or testimony of parents, school officials, social workers, and mental health professionals. The youths and their legal counsel have the opportunity to present testimony on the youth's behalf. In the predisposition report, the probation officer usually recommends whether the youth should be placed on probation, probation conditions, or whether out-of-home placement and treatment is appropriate.

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### **Judges Typically Accept Probation Officer Recommendations**

Our review of case files indicates judges typically accept the recommendation of the probation officer in regard to disposition and any subsequent probation and/or youth placement. The courts often retain custody of youths and establish formal probationary periods with specific conditions of probation. The youth is supervised by the probation officer during the formal probationary period. The conditions of formal probation are similar to those used in informal proceedings, but are incorporated into the disposition court order. In addition to probationary conditions, the court can specify placement of the youth into a community setting, such as a parent's home, a foster family home, or group home. Violations of a court ordered probation can result in contempt of court charges, another court appearance, and a court declaration of the youth's delinquency if previously adjudicated a youth in need of supervision. If already a delinquent, the court may impose more strict or longer probation conditions, or commit the youth to DFS.

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### Serious Juvenile Offenders are Placed in Correctional Facilities

Based on the youth's criminal history and probation officer recommendations, the judge may remand custody of the youth to DFS for placement in an appropriate setting. If the judge believes the youth represents a danger to society, and the youth is classified as a serious juvenile offender, disposition may include the requirement for a secure setting. The Youth Court Act defines a serious juvenile offender as a youth who has committed an offense against a person, against property, or involving dangerous drugs, that if committed by an adult would be considered a felony offense. In most cases, serious juvenile offenders are placed by the court in state correctional facilities, or occasionally with DFS approval, in private residential treatment facilities that offer secure care.

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### Determinate Sentences are Used to Direct DFS Treatment/Supervision

Court orders for commitment to a correctional facility usually indicate the youth is remanded to the custody of DFS, and specifies PHS or MVS. Additionally, the court order indicates the youth is the responsibility of DFS until age 18 or 19, or until sooner released. This presumes the department will release the youth when appropriate treatment is completed. Some court orders include determinate sentences. We noted determinate sentences for specific length of stay at a correctional facility, for example, for 12 months or for the school year. We also noted determinate sentences for completion of programs, for example, chemical dependency or juvenile sex offender treatment programs. DFS officials and youth court judges have disagreed about the legality and appropriateness of determinate sentences used by the courts. There are no statutes prohibiting their use and youth court judges continue to use determinate sentences as a reaction to decreasing length of stays at correctional facilities.

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### Youth Placement Committees Required

When a youth's supervision is remanded to DFS for a disposition other than secure placement at PHS or MVS, a five person Youth Placement Committee (YPC) in each district is to review the youth's file and history. Statutorily, YPCs are required to review youth placements, consider options and resources, and make a placement recommendation to DFS. YPC membership includes representatives from: DFS, the county department of public

## **Chapter III - Youth Court Operations**

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welfare, youth court probation, local mental health, and local school district. The youth's file and information relating to placement options is prepared by the probation officer and presented to the YPC. Placement options typically include foster family homes, therapeutic group homes, private residential treatment facilities, or state correctional facilities.

By law, the committee is to consider the youth's needs, placement availability, and budget implications, based on the philosophy that a youth removed from his family should be placed in the least restrictive setting that meets identified treatment needs. The committee then makes a placement recommendation to the DFS regional administrator, who is responsible for the regional child care and treatment budget. The regional administrator may or may not approve the YPC placement recommendation based on issues such as placement availability and budget implications. If a YPC placement recommendation is not approved, the regional administrator determines the placement. On page 55 we identify concerns regarding use of YPCs.

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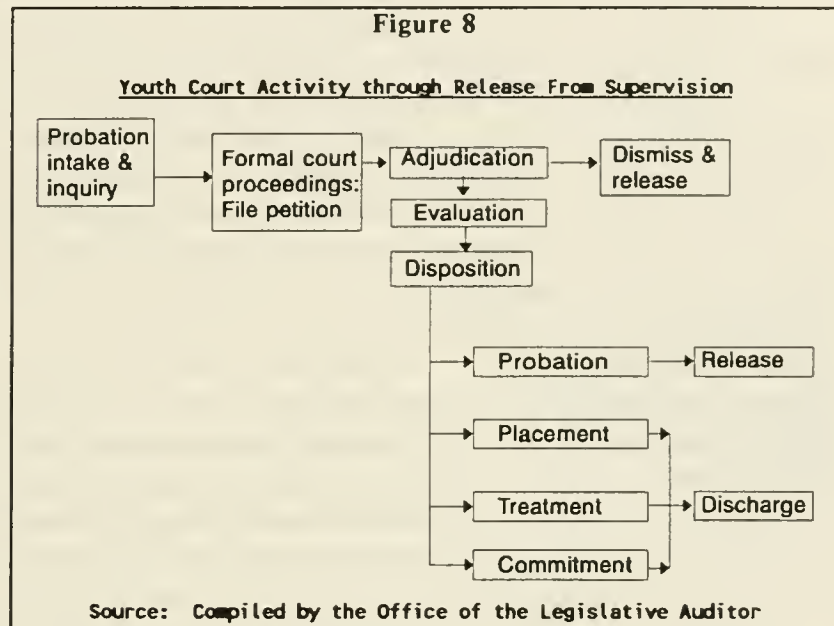
### **DFS Regional Administrator Involvement in Placements**

Juveniles are temporarily placed at PHS or MVS who were initially recommended for placement at residential treatment facilities by the youth court and/or YPC. Regional administrators, based on their own assessment of needs, options, and statutorily established funding limitations, determined an alternative placement, specifically PHS/MVS. As a result of budget limitations, regional administrators indicated it is not unusual for treatment/placement funds to be depleted before all youths with identified needs can be placed as recommended. In such cases, the department is usually not rejecting residential treatment, but placing youth treatment on hold pending availability of funds. As a result, alternatives which are either lower cost or available, such as PHS or MVS, are used until funding is available and/or there is an opening in the recommended treatment facility.

## Chapter III - Youth Court Operations

### Formal Youth Court Proceedings Process

The following figure describes the formal proceedings process from intake to probation through disposition options.



### Funding of Youth Placements

If placement is approved by the DFS regional administrator, the probation officer makes the placement arrangements. The arrangements include collecting appropriate documents and transporting the youth. If the placement is for foster care, group home, or a private residential treatment facility, the probation officer is responsible for preparing the application for acceptance and establishing eligibility for federal or state assistance funds. In most cases, the probation officer has prepared most of this documentation prior to the YPC meeting, because the committee and regional administrator want advance assurance the placement options under consideration are viable, relative to a youth's eligibility and acceptance.

A youth's eligibility for state or federal foster care/Medicaid support funds is based on whether the youth is on or qualifies for Aid to Families with Dependent Children (AFDC) at the time of the placement. In determining eligibility for assistance, the AFDC criteria considers the youth's income and resources independent from their family. In addition to foster care, a



## **Chapter III - Youth Court Operations**

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variety of Medicaid funded services are available. Examples include: psychiatric care, mental health clinical services, alcohol and drug treatments, and various counseling services. Specific Medicaid program eligibility criteria determines the level of support and type of treatment for which the youth qualifies.

Section 41-5-523, MCA, requires youth courts to examine and determine the financial ability of the youth's parents to pay a contribution covering all or part of the costs for care, commitment, and treatment of the youth. (See page 39 for issues concerning parental contributions.)

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### **Youth Courts are Effective in Diverting Most Youth from DFS Supervision**

During the course of our audit, we reviewed the decision-making process used by probation officers to intervene in youth's lives who enter the juvenile justice system. We also observed probation activities statewide and interviewed probation officers on a variety of topics ranging from general policies and procedures to specific case management techniques.

Based on our examination of the youth court process previously described, youth courts make an active effort to treat and/or divert youths away from further involvement with the juvenile justice system. We base our conclusion on the number and type of treatment programs used, use of graduated, but more restrictive probation periods and conditions, and probation officers' and judges' attempts to determine if there are medically-related reasons for the delinquent actions.

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### **Issues Concerning Youth Court Operations**

We noted substantial differences in youth court operations and activities among judicial districts. While overall efforts made at the "front end" of the juvenile justice system by youth courts do divert many youths from further system involvement, there are areas where more consistent procedures could improve delivery of services at the local level.



## Chapter III - Youth Court Operations

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### **Certified Probation Officer Training is Needed**

The Montana Youth Court Act requires all juvenile probation officers to receive at least 16 hours of training per year in subjects relating to the powers and duties of the probation officer. During our audit work, we noted wide variation in amount and types of training probation officers received. Some officers indicated they did not attend any training courses. Others indicated they received less than 16 hours per year, and a few indicated they receive substantially more than 16 hours of training per year. In some districts, probation officers could provide examples of specialized training received, while in other districts, attendance at the annual Montana Correction Officer's Association convention was considered 16 hours of training.

At present, there is not an established training curriculum for juvenile probation officers. It is up to the youth court judge and chief probation officer in each district to determine the type and amount of training to be received by probation officers. The Juvenile Probation Officers Association (JPOA) has acknowledged the need for a certified training program for all probation officers and is examining alternatives. The JPOA alternatives for probation officer training are:

1. The Montana Board of Crime Control (MBCC) through the Peace Officer Standards and Training (P.O.S.T.) function administers certified training programs for both law enforcement agencies and adult probation/parole officers. A similar program for juvenile probation officers could be administered by MBCC/P.O.S.T.; however, statutory authorization is needed to promulgate rules.
2. The Montana Supreme Court provides administrative support to the statutorily-created Commission on Courts of Limited Jurisdiction, which establishes training curriculums for Montana's Justices of the Peace. A similar program for juvenile probation officers could be established, but would also require statutory authorization.

### **Lack of Training has Contributed to Inconsis- tency**

In various judicial districts throughout the state, there are probation officers who are not in compliance with statutory training requirements. Lack of training is a factor in the variations noted in how probation officers and judicial districts perform their duties. For example, we noted substantial differences in youth intervention and treatment approaches. While various restitution

### **Chapter III - Youth Court Operations**

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programs are used in most judicial districts, the programs are not consistent in terms of either administration or treatment methodology. Youths ordered to pay restitution, the restitution amounts, and priorities for victim repayment vary substantially both within and between the districts. In other instances, we noted substantial differences in type and amount of youth criminal involvement before they were committed to DFS supervision. As a result of these inconsistencies youths are not treated equally or consistently statewide, and victim compensation for a youth's criminal activities is impacted by program administration. Developing a training curriculum and requiring attendance at certified training could increase probation officer awareness of successful alternatives and promote consistency in youth court activities.

The JPOA has acknowledged the need for more uniformity of youth court activities, and recently developed procedures/forms to help initiate consistency among youth courts. However, use of these standardized procedures is voluntary, there are no requirements for the youth courts to utilize these procedures and forms.

#### **Recommendation #1**

**We recommend the legislature:**

- A. Provide statutory authority to administer a juvenile probation officer training program which includes approval of curriculum and classes to either the MBCC or the Supreme Court.**
- B. Amend the Youth Court Act to include a requirement for juvenile probation officers to attend certified training.**

## Chapter III - Youth Court Operations

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### Potential for Parental Contributions is not Being Examined

The Youth Court Act mandates youth court examination of a parent or guardian's financial ability to pay a contribution covering all or part of the costs for care, commitment, and treatment of a youth committed to DFS. Based upon our review of youth case files, we noted only a small number of isolated instances where such an examination was conducted or documented.

Section 41-5-523, MCA, specifies use of child support guidelines to determine how much a parent or guardian should contribute. The statute also requires a written explanation be included in the court order, if a parental contribution is not ordered. Interviews with probation officers and youth court judges suggest the courts do not perform or require the financial examinations because of confusion over how the financial examinations should be conducted and whether the youth court, the Department of Social and Rehabilitation Services (SRS), or DFS is responsible for enforcing any court-ordered parental contributions.

Most treatment and care costs for youths supervised by DFS are paid with state and federal funds. It is not possible to determine or project how much these costs could be reduced by parental contributions because of lack of a comprehensive database on youths length of stay in the juvenile justice system and the potential contribution amounts. The requirement for parental contributions is an important aspect of youth courts' responsibilities. Not only can parental contributions reduce expenditure of state and federal funds, the requirement for such contributions reinforces the parent or guardian's economic responsibility for their child. Parental contributions could also affect the placement decision-making process of the regional administrator.

Currently, youth courts, DFS, and SRS all play a role in the juvenile justice parental contribution process. Youth courts must order financial examination and determine the contribution amount. SRS investigates and enforces the court order requiring the contributions. DFS provides the programs and subsequent data used for youth treatment and care. While DFS and SRS officials have indicated they are working on a pilot project with

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a single judicial district to increase parental contributions, there is no established statewide procedure or mechanism to implement a successful parental contributions function. The probation officers association, JPOA, has developed standardized court orders for youth courts which address the requirements for parental contributions. However, there is currently no assurance of adoption of these standardized procedures by the youth courts.

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### **Youth Courts have Primary Responsibility for Establishing Parental Contributions**

According to statute youth courts are responsible for the first step in the process. The court has to examine financial ability to pay prior to court ordered disposition to DFS, in every case. The court order must specify the amount of parental contribution determined by the court before the process can proceed. The Supreme Court in unison with DFS should establish standard rules and forms to insure youth court awareness and compliance with current statutory requirements for the examination and provision of parental contributions.

### **Recommendation #2**

**We recommend the Supreme Court and DFS establish parental contribution procedures to insure youth court compliance with the law requiring documented consideration of parental contributions.**

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### **There is No Youth Court Management Information System**

During interviews with juvenile probation officers, we asked for information and/or statistics on probation officer activities such as: number of youths referred, types of crimes, success of intervention programs, etc. In most districts, we found youth courts do not develop or compile any type of comprehensive information on youth court activity. While probation officers indicated they submit some numerical data to the Montana Board of Crime Control via the Juvenile Probation Information System, most also indicated neither this data nor any other information concerning their daily activities is used to evaluate operations. Compiling



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management information is either perceived as too time-consuming or as having no value relative to day-to-day job requirements.

### **There is a Lack of Data on Program Outcomes**

As a result of youth courts not compiling management information, and therefore not conducting ongoing evaluations of their performance, youth courts cannot differentiate between programs in terms of whether youth intervention and diversion program are effective. For example, probation officers indicated the use of shelter care or group homes as a common youth intervention technique because of their access and availability, rather than because their success rates justified the continued use of these DFS-funded options. Similar logic was expressed for restitution and community service programs; that is, they are used because of probation officer perceived "lessons" these programs can provide youths, rather than because of a documented success of diversion and victim repayment.

Development and maintenance of management information is needed to evaluate the operational aspects of an organization as well as to measure staff performance and program outcomes. Further, studies by the National Center for Juvenile Justice state:

- juvenile developmental offense patterns exist, which if properly identified and monitored, can predict repeat activity and lead to specific future treatment program development.
- both judges and probation officers need criminal activity and offense pattern information to make treatment decisions.

At present, there is no statewide system to gather and compile information on youth intervention and diversion program effectiveness. Although the Supreme Court until 1990 maintained a Statewide Judicial Information System, according to Supreme Court officials it was discontinued due to other funding priorities resulting from reduced appropriations. Currently, the Supreme Court is working with the various courts in Montana to establish a Judicial Case Management System. Although the system's current capability is limited to civil cases, and is only in place in some counties, it is being designed to create a statewide judicial information system.



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### **Recommendation #3**

**We recommend the Supreme Court in unison with the youth courts work towards a management information system which includes data on youth court programs.**

# Chapter IV - Juvenile Detention Activities

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## Introduction

During our performance audit of juvenile justice, we reviewed the role of the Montana Board of Crime Control (MBCC) and Youth Justice Council (YJC). We interviewed MBCC support staff, reviewed documentation, and observed various board and advisory group meetings. We focused our review on the MBCC and YJC's efforts to establish and monitor compliance with federal and state youth detention requirements.

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## Federal Detention Requirements

The federal Juvenile Justice and Delinquency Prevention (JJDP) Act requires states to remove juveniles from adult jails and eliminate detention of status offenders. If adult jails are used for initial detention of youths, the jails must be structurally arranged to provide sight, sound, and physical separation from adults housed in the jail. The Office of JJDP has provided federal grants to Montana to help improve juvenile justice services, and address youth detention issues. The MBCC and YJC were established by Governor's Executive Order and are responsible for administering the requirements of the JJDP Act.

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## State Detention Requirements

A 1989 survey prepared by the Legislative Council for the Joint Interim Subcommittee on Adult and Juvenile Detention determined only a small number of adult jails in Montana could comply with federal requirements for juvenile separation from adults. In order to continue receiving juvenile justice grant moneys, and reduce the potential liability of a future civil rights violation lawsuit, several detention-related laws were passed by the 1991 Legislature.

Youth detention statutes (Title 41, MCA) made the counties responsible for providing youth detention services and authorized development of up to five regional detention facilities. In addition, the statutes defined who is responsible for youth detention costs and required counties to submit regional plans to the MBCC that identify detention services and budgets. The legislature also recognized local government's lack of resources to fully provide youth detention facilities, by statutorily designating a specified portion of the Montana

## **Chapter IV - Juvenile Detention Activities**

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Lottery proceeds to fund state grants for youth detention services. In conjunction with providing detention services, various laws were passed prohibiting detention of status offenders and specifying methods and time frames for detention of youths prior to and after a probable cause detention hearing.

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### **Regional Detention Facilities have been Developed**

Regional plans provide a description of the detention services, secure and nonsecure, used to accommodate both alleged delinquent youths and status offenders. The categories of juvenile detention facilities identified in the regional plans are defined on page 27. Five regional plans were developed which identify the two existing regional facilities licensed for long-term secure detention in Billings (Southcentral Region) and Kalispell (Western Region). A long-term facility is also planned for Great Falls (Northcentral Region) and a temporary 96-hour secure detention facility is being used until construction of the facility is completed in late 1993. The Southwestern Region is not currently planning for its own long-term secure facility, rather their intent is to use an established 96-hour facility in Bozeman and transport youths with long-term secure detention requirements to the Billings facility based on a contractual arrangement. Similarly, the Eastern Region has established a 96-hour facility in Colstrip and a contract for long-term secure detention in Billings.

The following table identifies the current range of regional detention capabilities in Montana:

## Chapter IV - Juvenile Detention Activities

Table 4

Regional Detention Programs  
(Based on Regional Plans: July 1, 1992)

<u>Region</u>	<u>Long-Term Secure</u>	<u>Secure 96-Hour</u>	<u>Non-Secure<sup>6</sup> 24-Hour</u>
Southwest	None	Bozeman (6 beds)	Virginia City Dillon Bozeman Butte
Southcentral	Billings <sup>2</sup> (4 beds)	None	None
Eastern	None	Colstrip (4 beds)	Glendive Miles City Glasgow Wolf Point <sup>1</sup>
Western	Kalispell (12 beds)	Troy (3 beds)	Missoula <sup>3</sup> Hamilton
Northcentral	Great Falls <sup>4</sup>	Great Falls (6 beds) <sup>5</sup> Havre <sup>1</sup>	Chinook Malta Conrad Helena Great Falls

<sup>1</sup> Included in regional plan, but not implemented.

<sup>2</sup> Planned expansion from four to eight beds.

<sup>3</sup> Home arrest program with telephone monitoring.

<sup>4</sup> Six bed long-term facility under construction.

<sup>5</sup> Temporary facility, until long-term facility constructed.

<sup>6</sup> 24-hour holdover facility beds vary from one to four per facility.

Source: Compiled by the Office of the Legislative Auditor from Montana Board of Crime Control records

### Regional Detention Funding

Federal and state grant funds allocated by the MBCC/YJC supplement counties for detention and transportation services. Federal and state funds have been pooled and the money is used to pay 50 percent of the counties' costs for secure detention and transportation services and 75 percent of costs for nonsecure detention. The higher percentage for nonsecure is intended as an incentive to use less restrictive nonsecure detention and other alternatives such as electronic monitoring.

## **Chapter IV - Juvenile Detention Activities**

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There is approximately \$325,000 in annual federal grant funds available to help assure compliance with JJDP mandates. Approximately 65 percent of these funds are used for detention services. The remaining amount is used for other juvenile justice projects and for grant monitoring and administration. State resources appropriated by the legislature for juvenile detention are generated from Montana Lottery revenues. The legislature specified 9.1 percent of projected net Montana Lottery annual revenue is to be used for youth detention services. Estimated revenue for fiscal year 1992-93 is \$560,000 according to MBCC staff.

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### **Annual Detention Budgets are Required**

The five regions were required to submit budget requests to MBCC with their detention plans which projected their annual detention costs. Regional budget development was based on anticipated usage and historical regional detention data. Following review by MBCC staff and the YJC, regional budgets and associated grant allocations were reviewed and approved by the MBCC. The following table depicts annual budgets and expenditures from July 1, 1992 through March of 1993.



## Chapter IV - Juvenile Detention Activities

Table 5

Regional Juvenile Detention Budget and Expenditures  
July 1992 through March of 1993

<u>Region</u>	<u>Budget Category</u>	<u>Secure Detention</u>	<u>Nonsecure Detention</u>	<u>Total</u>
Western	Budget	\$348,248	\$ 56,258	\$ 404,506
	Expended	\$117,246	\$ 40,201	\$ 157,447
	Percent	34	71	39
Eastern	Budget	\$107,687	\$ 17,046	\$ 124,733
	Expended	39,297	\$ 4,708	\$44,005
	Percent	36	28	35
Southcentral	Budget	\$194,167	\$ 2,666	\$ 196,833
	Expended	\$153,660	\$ 1,386	\$ 155,046
	Percent	79	52	79
Northcentral	Budget	\$194,974	\$113,907	\$ 308,881
	Expended	\$ 99,118	\$ 62,264	\$ 161,382
	Percent	51	55	52
Southwestern	Budget	\$120,792	\$ 13,190	\$ 133,982
	Expended	\$ 37,455	\$ 2,810	\$ 40,265
	Percent	31	21	30
<hr/>				
TOTAL	Budget	\$965,868	\$203,067	\$1,168,935
	Expended	\$446,776	\$111,369	\$ 558,145
	Percent	46	55	48

Source: Compiled by Office of the Legislative Auditor from MBCC records

### Use of Regional Detention by Youth Courts and DFS

Since regional detention plans only became effective July 1, 1992, detention usage, like expenditure information, is limited to July through March of 1993. Although the JCD did not participate in regional plan development, their juvenile detention requirements are currently met via use of regional facilities. As a result of JCD usage of detention not being part of the regional detention plans, JCD has no assurance of detention availability if the facilities are fully occupied by regional detention participants. The JCD also does not receive MBCC funding for detention of youths on parole. The following table shows July 1992 through March of 1993 secure and nonsecure youth detention

## Chapter IV - Juvenile Detention Activities

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and electronic monitoring usage by both youth courts and JCD parole officers.

Table 6

**Regional Detention Activity**  
(July 1992 through March of 1993)  
Number of Youths

<u>Region</u>	<u>Secure Detention</u> <u>(probation/parole)</u>	<u>Non-Secure</u> <u>Detention</u>	<u>Electronic</u> <u>Monitoring</u>
Southwest	43/3	5	0
Southcentral	124/7	10	7
Eastern	16/2	26	2
Western	141/7	6	38
Northcentral	222/74	74	9
TOTALS	<u>546/93</u>	<u>121</u>	<u>56</u>

Source: Compiled by the Office of the Legislative Auditor from MBCC records

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### **Conclusion on Regional Detention Usage is Premature, but More Data is Needed**

It is too early to conclude on the success of efforts to comply with federal and state youth detention requirements, or the use of state/federal funding to help counties support use of available services. The statutory changes in detention criteria and associated changes resulting from the regional detention approach require more than three quarters of data to establish or assess usage and expenditure trends. We discuss the need for more information on detention activities in Chapter VIII.

# Chapter V - Juvenile Corrections Division

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## Introduction

Our evaluation of Department of Family Services (DFS) involvement in juvenile justice included a review of the role of the Juvenile Corrections Division (JCD). The division, created in July 1991, is responsible for administration of the juvenile corrections portion of juvenile justice in Montana. Prior to creation of the JCD, the correctional facility superintendents reported to the department director, and the parole function was administered by the DFS regional administrators.

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## Division Officials have been Changing the DFS Portion of Juvenile Justice

Over the past year substantive changes have been taking place in overall division operations. At the correctional facilities, a new youth classification and treatment approach has been established, treatment teams have been developed, and both facilities' populations have been changing. Division officials have also brought in various juvenile corrections experts to evaluate Montana's correctional system and have been developing alternative approaches based upon the expert's recommendations.

Division officials have been attempting to change the emphasis of the division from facility-based treatment of youths to a more community-based approach. To accomplish this, division officials have been working with youth courts in selected judicial districts to change the courts' traditional approach to youth dispositions by developing community-based alternatives to facility commitments. The development of community-based alternatives has also included a changing role for Mountain View School from a long-term, girls only facility into a coed 90-day observation and assessment program which returns youths to youth courts for supervision.

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## Effectiveness of Reforms has not been Fully Evaluated

While we believe the changes division officials have been instituting may improve correctional facility operations and juvenile justice as a whole, the changes have either occurred recently or are still being implemented. As a result, it has not been possible for us to fully evaluate their impact or effectiveness. Chapter IX provides an overall summary of our evaluation of division operations relative to juvenile justice as a whole.

## **Chapter V - Juvenile Corrections Division**

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### **Management Attention is Required in Several Areas**

During our performance audit work, we identified several areas where management attention is required to address issues which affect the entire division. The areas include management controls, youth transportation, the Youth Placement Committees, Interstate Compact, court-ordered restitution, and staff back-ground investigations.

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### **Management Controls are Limited in all JCD Operations**

We examined management controls in place to assess administrative and operational efficiency and effectiveness. Management controls include organizational mission, goals and objectives, policies and procedures, management information, training, performance appraisals, and records management. As a result of our review, we found a number of areas where improvements could be made.

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### **Lack of Goals and Objectives Affects Treat- ment Approach**

The JCD does not have specific division-wide goals and objectives nor a mission statement outlining the purpose of juvenile corrections. Although both correctional facilities have formal mission statements, neither facility has specific goals and objectives which are measurable or which provide staff and management short and long-term guidelines upon which to focus their work activities. Our review of the parole function revealed there are no formal goals and objectives relating to youths once they are released from a facility.

As a result of the insufficient goals and objectives, there is no consistent treatment approach between the two facilities or between facilities and the parole function. One effect of not having goals and objectives was noted in our review of the parole function when we determined variation in how parole officer's view their supervision role. Some officers contact youths on a frequent basis and get them involved in community programs to help prevent future criminal activity. Other parole officers wait until they receive a report or other evidence indicating a youth is not complying with the aftercare agreement before having much contact with a youth.

## Chapter V - Juvenile Corrections Division

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### Policies and Procedures Needed

During our review of the division's various policy and procedures manuals we noted a substantial number of ongoing activities are not outlined in the manuals. Additionally, we found many of the existing directives are not current or complete and/or are not being complied with. Although the facilities have recently been revising some policies and procedures, there has been no comprehensive review of all JCD policies and procedures manuals; therefore, a number of the facilities' and parole officers' daily activities are performed without formal policy guidelines. Additionally, we noted substantial variation between the existing policies and procedures of the facilities and parole function relative to youth treatment, discipline, and supervision.

Lack of policies and procedures which are up-to-date, comprehensive, and which complement facility and parole functions has created inconsistencies not only within each function, but between the functions. For example, we noted significant problems between the correctional facilities and parole function regarding procedures for notification, investigation, and documentation of youth releases and revocations for parole violations.

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### Management Information Needed to Measure Out- comes

While MVS and PHS generate some data on student populations, we did not find any management information which allows for the routine review of operational outcomes. Juvenile parole officers compile only limited data concerning their caseloads. During our review two of the six parole officers did not have formal caseload lists and another officer had not updated his list in over four months.

Without appropriate management information it is difficult for division officials to identify and/or demonstrate how well the facilities and parole function are operating or meeting established goals. For example, both facilities recently initiated a new youth classification and treatment approach; however, neither facility has developed methodologies to monitor nor measure its effectiveness. Also, youth court and DFS staff stated there are not enough parole officers to adequately supervise all the youths



## **Chapter V - Juvenile Corrections Division**

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on parole. At present, the JCD lacks the management information to be able to fully analyze this contention.

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### **Performance Appraisals**

Both the Administrative Rules of Montana and the Montana Operations Manual specify the need for annual performance appraisals. During our review of personnel files we found various instances of personnel not receiving annual performance appraisals. While existing policy and procedural guidance appears to adequately address the requirement for performance appraisals, management and staff personnel indicated appraisals have historically not been a priority. For example, of the five parole officers who have been employed for over a year, none received a performance appraisal within the past year, and three had not received an appraisal in over three years.

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### **Formal Training Plans Needed**

We noted an increased emphasis on staff training throughout the JCD during the past year. However, staff at all levels indicated acquisition of training has been based on available resources rather than on identification of needs and development of a training plan. We identified the lack of training plans which outline short and long-term training goals and objectives and lack of methodology to assure completed training is evaluated to determine usefulness and quality. The American Correctional Association (ACA) standards define training as an organized, planned, and evaluated activity, and effective training is dependent upon conscientious administration. Without a formal training plan, JCD officials cannot substantiate whether current training is a long-term commitment or a short-term response to re-organization and reform. Additionally, JCD officials are not formally able to determine future training decisions based on review of prior training costs and evaluation of training quality.

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### **Records Management**

During review of youth case files, we noted neither the facilities nor the parole function have approved records retention and destruction schedules. As a result, we noted PHS has not destroyed any of their youth records and MVS and parole officers have destroyed records without the appropriate approval. Several statutes in Title 2, Section 6 of the MCA

## Chapter V - Juvenile Corrections Division

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address the need for an active records management process, which includes obtaining approval from the State Records Committee prior to disposal of records.

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### Management Controls are Necessary to Improve JCD Operations

Throughout our review of the JCD we noted deficiencies in the procedural aspects of division operations. Due to lack of measurable division goals and objectives, comprehensive policies and procedures, and management information, it has been difficult to determine the success of program outcomes and consistency of treatment activities. In the chapters on correctional facilities and parole, we show additional areas where lack of comprehensive management controls, such as policies and procedures and training have impacted operations and treatment.

The basic task of management is to design and maintain an environment where staff can work towards meeting established program objectives. The ACA standards also point out the need for sound management controls which allow performance evaluation of operations and programs to assure knowledgeable and informed decisions. There has been a lack of management emphasis on development of comprehensive management controls since the correctional facilities and parole were placed under DFS control in 1987. This lack of emphasis is partially demonstrated by the differences we noted in operating procedures of the functions and the need for substantial revision of existing policies and procedures. The lack of management emphasis has continued since administration of the facilities and parole was transferred to the JCD. The cause of the ongoing deficiencies appears to be the multiple priorities inherent in the creation of a new department/division and the lack of management staff to initiate sound management controls. For example, although the JCD was created in July 1991, there was limited supervision over the parole officers until after the division's administrative officer position was created in February 1992, when the position became responsible for parole officer supervision. However, the administrative officer is also responsible for division budget management, case coordination, and policy development.

## **Chapter V - Juvenile Corrections Division**

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Upon notification of our concerns, JCD officials responded they intend to make management control improvements and are in the process of developing or finalizing various policy and procedures manuals.

### **Recommendation #4**

**We recommend the Juvenile Corrections Division emphasize development and implementation of management controls.**

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### **Transportation of Juvenile Justice Youths**

Throughout the juvenile justice system there are requirements for transportation of youths. Probation officers must transport youths to various residential treatment facilities as well as the correctional facilities. PHS and MVS must also transport youths who are being placed in treatment facilities, as well as pick up youths who have escaped from the facilities or are being returned to the facilities for parole violations. The juvenile parole officers also transport youths when PHS or MVS staff are unable to pick up parole violators.

We noted concerns with the amount of time and dollars expended on transportation of youths to and from the various placements from personnel throughout the juvenile justice structure. In addition, facilities and parole staff described informal procedures to coordinate transportation of youths in order to minimize travel for all involved, but they also described problems and breakdowns with the existing system.

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### **Youth Transportation Data is not Developed**

In an attempt to determine how much travel is conducted by all affected DFS staff, we found there is no management information collected and no formal overall policies and procedures on how the transportation process is to operate. Without data on costs and use of staff, management staff cannot readily determine fiscal and/or administrative impacts of transportation. For example, when parole officers transport youths, travel time can

## Chapter V - Juvenile Corrections Division

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take them away from their youth supervision duties for up to two days. This absence is especially a concern in one-person offices which close while the parole officer is gone. At PHS, security staff spend at least three days per week transporting youths. At MVS, transportation requirements are not as demanding due to smaller population and centralized location.

In response to our transportation concerns, PHS and MVS officials stated they have recently instituted procedures to document transportation of youths, miles traveled, and costs, and JCD officials indicated they are investigating the cost effectiveness of contracting with private providers to develop a transportation system for all youths placed under DFS supervision.

### **Recommendation #5**

**We recommend the Juvenile Corrections Division:**

- A. Require collection of youth transportation management information from the juvenile correctional facilities and juvenile parole officers.**
- B. Evaluate current transportation operations to determine the most effective method of transportation of youth in the custody of the Department of Family Services.**

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### **Youth Placement Committees are of Questionable Value**

Youth Placement Committees are statutorily required in each judicial district to review and recommend an appropriate placement for youths referred or committed to the department. The five-person committees include representatives from: DFS, the county welfare department, youth court probation, local mental health, and local school district.

We noted many probation officers believe YPCs have little or no value because the statutes creating the YPCs also give DFS authority to reject a YPC's recommendation. Probation officers stated DFS has rejected some of the YPCs' specific placement



## **Chapter V - Juvenile Corrections Division**

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recommendations for cost-related reasons. As a result, probation officers indicated they now negotiate placements with DFS representatives prior to submitting their recommendations to the YPC, and indicated the placement may have already occurred prior to YPC approval.

We confirmed that in a substantial number of youth files a YPC recommendation was either not obtained, or formal approval was dated after the placement occurred. We determined in at least one district, DFS does not have an appointed YPC and in several other districts, the YPC is inactive or is simply a "rubber stamp" for whatever decision or agreement is reached between the probation officer and DFS regional administrator.

### **Placements are Pre-approved by Regional Administrators**

Our interviews with DFS regional administrators confirmed many YPC placement recommendations have been formally or informally pre-approved by the regional administrators. They indicated the reason for pre-approvals is due to demand for bed space in the existing treatment facilities and budgets which limit their options to consider any YPC recommendations they view as not "fiscally practical." As a result, regional administrators acknowledge the ability of YPCs to help determine a youth's placement, is often hindered by the youth court's need for a quick approval response for placements and the committee's lack of information about available funds for placement.

Lack of proper YPC utilization as defined by statute, and pre-approvals by DFS, suggests the YPC placement recommendation function has little or no value. Both this performance audit and a recent financial-compliance audit completed by our office have noted the department's noncompliance with YPC statutes. In response to our findings, JCD officials indicated they intend to eliminate use of YPCs in several districts and replace them with a youth assessment team which would meet prior to the youth court's disposition hearing. The team would review all proposed correctional facility placements, and then make a recommendation to the youth court. Any other out-of-home placements would be decided between the youth court and DFS regional administrator. This proposal would not comply with current state law.



## Chapter V - Juvenile Corrections Division

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Regardless of what is proposed by the JCD, the purpose of statutorily created YPCs was to establish a placement review mechanism to help assure proper placement of youths. At present, this recommendation process in many instances, is either ignored or is done after the fact. We believe DFS should either fully comply with the related statutes on a statewide basis, or seek legislation to eliminate or modify the YPC function.

### **Recommendation #6**

**We recommend the Department of Family Services fully comply with Youth Placement Committee statutes or seek legislation to eliminate or modify the function.**

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### **Administration of the Interstate Compact on Juveniles**

The Interstate Compact on Juveniles (ICJ) is an agreement between states to address supervision of delinquent juveniles and runaway youths who have crossed state lines. The compact provides standardized procedures for the welfare and protection of juveniles and public by coordinating youth supervision, and if necessary, extradition to their home state. All juvenile justice system personnel, including probation officers, corrections facility staff, and parole officers use or are affected by the ICJ.

Montana has statutorily adopted the ICJ provisions and authorized the Governor to appoint an administrator to develop rules for its administration (sections 41-6-101 through 106, MCA). The law specifies the courts and department shall comply with and enforce the compact provisions. Currently, the ICJ is administered by the Department of Family Services, Juvenile Corrections Division.

## **Chapter V - Juvenile Corrections Division**

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### **Administrative Concerns Regarding Utilization of the Interstate Compact**

Based upon our review of interstate compact files and interviews with various DFS staff we identified several concerns with ICJ administration. They included:

- lack of compliance with ICJ rules by both Montana and other states who send youths to Montana.
- lack of a policy and procedures manual specifying how ICJ users utilize, document, and comply with ICJ requirements.
- no user training on ICJ operations.
- limited, active management of the ICJ process by the department.

### **There are Deficiencies in ICJ Compliance**

We noted several significant effects from concerns outlined above. We found problems and inconsistencies in how juvenile justice personnel procedurally relocate youths in another state. The files indicate Montana youths have entered other states both before, and sometimes without, the receiving state formally agreeing to provide supervision. By doing so, Montana is in noncompliance with ICJ requirements. In addition, there are potential liability concerns for Montana if the other state does not provide proper supervision/treatment.

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### **ICJ Placement Investiga- tions are Overdue**

Our review of ICJ files also revealed a substantial number of long-pending requests from other states to relocate youths in Montana. By ICJ rule and Montana's agreement to participate, applicable juvenile justice personnel are obligated to conduct an assessment of the placement to determine its viability, and advise the requesting state of its willingness to provide supervision. By not promptly responding to these requests, other states are essentially forced into ICJ noncompliance by approving youth relocations without Montana's approval.

We also noted examples of other states refusing to accept youths back who originated from their state. Typically, the reasons for returning a youth to the state of initial jurisdiction would be for criminal activities in the state which agreed to conduct courtesy supervision. In those examples we noted, youths were subsequently placed in a Montana correctional facility when the other state would not accept their responsibility as defined in the ICJ.

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### **Lack of a Procedures Manual and Training Impact ICJ Compliance**

At present, none of the juvenile justice personnel responsible for ICJ compliance have a detailed, up-to-date Montana ICJ procedures manual, nor have they received training in how to conduct ICJ activities. Lack of formal methodologies and training for conducting ICJ procedures and the subsequent problems noted in the case files, is at least partially due to lack of active ICJ administration in recent years. Currently, there is neither a Governor-designated ICJ administrator nor Administrative Rules to help effectively carry out ICJ provisions.

ICJ and statutory compliance could be improved by an increased DFS emphasis on compact administration.

#### **Recommendation #7**

**We recommend the Department of Family Services improve Interstate Compact on Juveniles administration by:**

- A. Requesting the Governor designate an ICJ administrator.**
- B. Developing/distributing procedures and conducting training on compact operations.**

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### **Court-Ordered Victim Restitution**

We noted the use of victim restitution as a method for diverting youths from future criminal activities. In some instances, youths committed to the correctional facilities were also ordered by the youth court to pay restitution as part of their disposition. We examined procedures in place to assure youths either pay or continued to pay any court-ordered restitution.

At the correctional facilities, we found there are only informal procedures to collect court-ordered restitution. This is done by withholding a percentage of any allowance or other moneys received by the youth during their stay. Our audit work at MVS suggested there is no active process for collection of court-

## **Chapter V - Juvenile Corrections Division**

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ordered restitution, and youths have not always been required to comply with the restitution order. Similar circumstances were noted at the transition centers and during our interviews with parole officers; there are no formal procedures to assure youths continue restitution payment.

The purpose of restitution is to make youths accountable for their actions and compensate victim's losses. By the JCD not having formal policies and procedures for complying with court-ordered restitution, pre-established youth treatment via financial accountability is jeopardized. DFS officials should establish a formal policy and procedures to ensure collection of court-ordered restitution requirements throughout the JCD-administered portion of juvenile justice. Such procedures could address the percentage and type of personal funds which could be used for restitution.

### **Recommendation #8**

**We recommend the Juvenile Corrections Division establish formal policy and procedures for collection of court-ordered restitution.**

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### **Staff Background Investigations are Inconsistent**

MVS and PHS conduct background investigations to detect whether job applicants for any staffing position have been convicted of criminal activities which would endanger the security of youths or staff. However, we determined the division does not have consistent staff background investigation policy or procedures. For example, MVS does not currently include a check of fingerprints in their investigation and PHS did not have a fingerprint check done for many of the employees hired prior to July 1991. Furthermore, juvenile parole officers and transition center staff are not formally investigated either prior to or after employment.

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Without consistent background investigations, including fingerprinting, there is no assurance applicants have provided accurate information or that any prior criminal records will be detected. We determined other correctional facilities, including Montana State Prison, require comprehensive staff background security investigations. A consistent hiring policy for all juvenile correctional staff should be adopted. When informed of our findings, JCD officials stated they recognize a uniform hiring process should be established for all staff.

### **Recommendation #9**

**We recommend the Juvenile Corrections Division establish consistent policy and procedures requiring a comprehensive background investigation of all new employees.**





# Chapter VI - Juvenile Correctional Facilities

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## Introduction

In calendar year 1992, approximately 200 youths were committed by youth courts to the Department of Family Services (DFS) youth correctional facilities in Miles City and Helena. Pine Hills School (PHS) in Miles City and Mountain View School (MVS) in Helena provide residential correctional services to youths between the ages of 10 and 19. This chapter describes the functions and activities of the correctional facilities. PHS and MVS are different from one another in a number of areas, such as personnel titles and treatment methodologies. For example, the counselors who develop youth treatment plans and provide counseling are called correctional treatment specialists at PHS and caseworkers at MVS. For purposes of efficiency, descriptions of PHS and MVS activities and functions are combined to provide the reader with a general sense of the facilities' operations. Where necessary, we specify unique features or activities of a particular facility.

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## History of the Facilities

The original Montana State Reform School was established in Miles City in 1893 for both male and female juveniles. In the early 1920s, girls were moved to the State Vocational School in Helena and the Miles City facility was renamed the State Industrial School. A four-year high school curriculum was developed in both schools in the mid 1940s. The schools were renamed Pine Hills School and Mountain View School in 1968.

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## Facility Infrastructure is a Concern to Investigatory Groups

Both facilities were established over 70 years ago. Each campus has occupied structures dating back to creation of the schools. At PHS, officials recently closed the last of the three oldest youth lodges. At MVS, youths are still housed in two of the three cottages constructed in the 1920s and the other is used as the administration building.

During our audit, concerns about building conditions were noted both by facility officials and in the federal and advocacy group reports. Our observation of buildings confirmed conditions noted by facility officials and the federal investigators. A review of Long Range Building Program (LRBP) documents show there has been no significant renovation or remodeling of

## Chapter VI - Juvenile Correctional Facilities

the existing campus structures since at least 1965 when the LRBP began. For the 1995 biennium, the LRBP Capital Construction Program recommended LRBP funds for two facilities-related projects in its priority listing: installation of fire safety systems and demolition of unsafe buildings. Additional infrastructure concerns are discussed on page 101.

The following table identifies youth housing and other major buildings on each campus by type, bed capacity, and age.

Table 7					
Correctional School Facilities (Major Facilities Only)					
Pine Hills School			Mountain View School		
Building		Date Built	Building		Date Built
<u>Lodges</u>	<u>Capacity</u>		<u>Lodges</u>	<u>Capacity</u>	
Range Rider	23	1981	Cottonwood	18	1960
Sundance	23	1980	Aspen	14	1926
Custer	20	1958	Spruce	25	1920
Russell	20	1952 <sup>1</sup>			
Lewis & Clark	NA	1906 <sup>1</sup>			
Crazy Horse	NA	1936 <sup>2</sup>			
Chief Joseph	NA	1922 <sup>3</sup>			
Admin/Kitchen		1950	Cafeteria		1965
School		1968	Admin		1922
Gym		1966	School		1922
Vocational		1973	Gym		1926
Chapel		1894	Clinic		1959
<sup>1</sup> Closed 1980 <sup>2</sup> Closed November 1991 <sup>3</sup> Closed January 1993					
Source: Compiled by the Office of the Legislative Auditor from PHS and MVS records					

## Chapter VI - Juvenile Correctional Facilities

### Youth Populations at the Facilities are Changing

Prior to July 1, 1992, populations at the correctional facilities consisted of youths committed for short-term psychological evaluations, and youths considered "regular" commitments. Included in regular commitments are youths returned to the facilities for parole violations. The following table shows youth populations at each facility for calendar years 1988 through 1992.

Table 8

**Correctional Facilities Commitments and Evaluations  
1988-1992 (Unaudited)**

Year	Commitments		Evaluations		Total	
	PHS	MVS	PHS	MVS	PHS	MVS
1988	156	41	186	82	342	123
1989	136	46	145	76	281	122
1990	138	36	137	93	275	129
1991	157	50	110	104	267	154
1992	145	51	55 <sup>1</sup>	72	200	123

<sup>1</sup> Evaluations discontinued at PHS July 1, 1992

Source: Compiled by the Office of the Legislative Auditor from PHS and MVS records

The following table shows population-related information for fiscal year 1991-92 and the first half of fiscal year 1992-93 for each facility.

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Table 9

Correctional Facility Population Summary  
July 1991 - December 1992  
(Unaudited)

	<u>PHS</u>	<u>MVS</u>
Average Monthly Population	108	42
Average Monthly Commitments	12	4.2
Average Monthly Evaluations	8 <sup>1</sup>	4.5
Average RPVs <sup>2</sup>	4.4	1
Average Length of Stay (months)	6	7

<sup>1</sup> Evaluations were discontinued at PHS July 1, 1992. Average is January - June 1992.

<sup>2</sup> RPV - Return for Parole Violation.

Source: Compiled by the Office of the Legislative Auditor from PHS and MVS records

Prior to July 1, 1992, PHS and MVS offered free psychological evaluations which the courts could utilize in their determination of a youth's disposition. Youth evaluations, which by law were not to exceed 45 days, were a measurable portion of each facility's population in previous years. On July 1, 1992 DFS began charging a fee of \$80 per day for evaluations which now last approximately 10 days, and eliminated provision of the service at PHS. MVS now offers evaluations for boys and girls.

### Length of Stay Varies Depending Upon Facility

Population information, such as data on average length of stay by youths, has not been historically compiled or calculated in a verifiable manner. As a result, we were unable to obtain more than estimates of the average length of stay. PHS officials indicate average length of stay of the total facility population is about six months. However, the six month average includes youths committed for sexual offenses who have a typical length of stay of 18 to 24 months. Youths committed for sexual offenses typically make up one-fourth of the PHS population.

MVS officials provided information which suggests average length of stay for girls has historically been eight to nine months. However, in the past year and a half, the average length of stay has dropped to seven months. The shorter length of stay at PHS



## **Chapter VI - Juvenile Correctional Facilities**

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has been primarily due to differences in the number of boys versus girls committed to the facilities relative to the number of beds available.

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### **Youth Treatment Programs at the Correctional Facilities**

The following sections identify facilities' procedures for accepting a youth, establishing a treatment program, as well as the educational and cottage life programs provided.

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### **Youth Intake and Assessment**

Upon a youth's arrival at either facility, a determination is made of whether they are accompanied by the statutorily required documentation: court order, recent physical examination, social history, and school records. Youths are assigned housing where intake processing, orientation, and assessment are conducted.

Youth orientation outlines behavior and discipline rules and explains treatment and education programs. Youths are advised of rights such as access to legal counsel, telephone and mail privileges, and visitation options.

During the ten days after arrival youths receive a battery of psychological and academic tests to create an individual treatment plan and assess their academic level. At MVS, a counselor is assigned to a youth prior to their arrival and most youths are enrolled in school within two to three days with testing occurring simultaneously with classroom instruction. At PHS, psychological and academic assessment occurs prior to assignment of a permanent counselor, housing, and enrollment in classes. Both facilities recently adopted a nationally recognized youth classification and assessment technique called Strategies for Juvenile Supervision (SJS). The facilities are using SJS, along with other tests to help classify youths from a security perspective as well as to direct a youth's treatment approach. Both facilities rely upon records supplied by the youth courts to aid in development of classification levels and treatment plans.

## **Chapter VI - Juvenile Correctional Facilities**

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### **Individual Treatment Plans are Established**

Upon completion of the assessment period, the counselor works with the youth to assist in the establishment of a treatment plan which is to include treatment goals and objectives. Typical treatment plans focus on such topics as anger management, self-esteem, personal responsibility and family relationships. Both individual and group counseling are used by counselors to address treatment goals. The amount of individual counseling varies depending upon the youth, but our review indicates there are at least weekly sessions at both facilities.

At PHS, there is also an on-campus, certified chemical dependency counselor who has scheduled sessions for those youths with the most severe chemical dependency problems. At MVS, youths with chemical dependency conditions are treated via an off-campus treatment program. MVS has contracted with a psychologist and psychiatrist who provide various types of individual counseling to selected youths. PHS also contracts with mental health professionals; however, their services are limited and consist of consulting with counseling staff about youth treatment strategies. No individual counseling is conducted by contracted professionals. PHS operates a Juvenile Sex Offender Program (JSOP). Program completion takes anywhere from 18 to 24 months depending upon the youth. Counselors who operate JSOP can consult with a certified therapist who is under contract with PHS.

During 1992, treatment teams were developed and established in both facilities. The teams include counselors, cottage life, education, medical, and recreation staff. Also the counselors moved from offices in the respective administration buildings into the housing units to increase contact with youths and to oversee the treatment team approach.

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### **Classroom Activity Plays a Significant Role in Youth Stays**

Since creation of the juvenile correctional facilities, education programs have played a significant role. Both PHS and MVS have accredited high schools with academic curriculums monitored by the Office of Public Instruction (OPI). During the school year most youths' daily schedules revolve around school attendance. School classes are generally scheduled for six hours

## Chapter VI - Juvenile Correctional Facilities

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per day, five days a week. During the summer, the number of classes offered is reduced due to teacher contracts and historical decreases in youth populations. Additional recreational activities are added during the summer, to replace classes. (See page 81 for concerns regarding the lack of full-time school programs.)

In some instances, youths have completed their education requirements or are working towards their General Education Diploma (GED) and are not placed in the classroom. Both PHS and MVS have GED programs and PHS has on-campus, as well as off-campus work opportunities for those youths not attending school.

PHS has established an industries program which is intended to assist in the training and rehabilitation of youths. MVS has limited on-campus work opportunities and does not currently offer either an off-campus or industries program.

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### **Cottage Life Staff also Influence Youth Treatment**

Both prior to and after school, as well as on weekends, youths are under the direct supervision of the Cottage Life Attendants (CLAs). These direct care staff (previously called house parents) are responsible for getting youths up in the morning, assigning housekeeping tasks, monitoring and correcting behavior, helping with recreational activities, and getting youths to bed. The following table shows the typical weekday schedule for youths.

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Table 10

Correctional Facilities Daily Activities Schedule for Youth

<u>Time</u>	<u>Mountain View School</u>	<u>Pine Hills School</u>
6:00 a.m.	Wake-up/Showers	Wake-up/Showers
7:30 a.m.	Breakfast in Cafeteria	Breakfast in Lodges
8:30 a.m.	School (8:30 - 11:50)	School (8:30 - 12:00)
12:00 p.m.	Lunch in Cafeteria	Lunch in Lodges
1:00 p.m.	School (12:50 - 3:30)	School (1:00 - 3:45)
4:00 p.m.	Cottage; Recreation; Counseling	Lodge; Recreation; Counseling
5:00 p.m.	Dinner in Cafeteria	Dinner in Lodges
6:00 p.m.	Recreation	Recreation
9:00 p.m.	Chores/Showers	Chores/Showers
10:00 p.m.	Bed	Bed

Source: Compiled by the Office of the Legislative Auditor from PHS and MVS records

On weekends, youths are provided more personal and recreation time, as well as religious services on Sundays. For those youths with off-campus privileges, there are opportunities to go to restaurants, attend movies, sporting events, and other community activities.

The cottage life staff work with the counselors and teachers to implement individual treatment plans. The amount of supervision and subsequent treatment-related activities provided by CLAs is directly related to each youth's behavior. Both facilities have housing units which are at least partially segregated based upon youths' security classification and behavior. For example, at PHS, the Sundance and Range Rider Lodges are used for youths who have displayed a need for closer supervision and/or control. At MVS, the Cottonwood Cottage is the designated housing unit for youths needing closer supervision.

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### Youth Motivation and Discipline Systems are a Significant Part of Youth Treatment

Both facilities have systems in place to allow for increased privileges and freedom as a youth's behavior improves and a demonstrated effort is shown regarding treatment goals. The expectations are monitored by grades received from school, lodge, and counseling staff. Each week grades from these three areas are compiled to determine amount and type of privileges for which youths are eligible. The privileges are classified by levels with youths starting at the lowest level and having to earn future levels via demonstrated behavior improvements. For example, PHS levels range from orientation level to level 4 with privileges increasing accordingly. At the highest level (level 4), youths are allowed such privileges as freedom to move around campus, off-campus activities, and late bed times.

One of the more sought after privileges (besides holiday and other home on leaves), according to facility officials, is canteen privileges. Each facility has a canteen which offers youths the ability to purchase candy and nontypical campus foods, as well as utilize various electronic and mechanical amusement games. Youths at each facility receive an allowance during their stay. At PHS the average daily allowance is \$.33 per day. At MVS the average allowance is \$.11 per day, but youths may earn more based on behavior, up to \$.40 per day at the highest level. Family contact and visitation is encouraged at both facilities with each offering limited, but free mail and telephone privileges. Amount and type of family visitation is based on the youth's privilege level. At MVS, there is an apartment for families willing to participate in the youth's counseling. Room and board are provided at no charge, to encourage participation in a youth's treatment.

Behavior on the part of the youth not in accordance with facility rules, or not considered to be in the best interest of the youth's treatment plan, can produce what are called "level drops." Both facilities classify misbehavior in terms of minor and major infractions, and these infractions are typically accompanied by written staff reports. For example, minor infractions could consist of not cleaning their room or not completing class room assignments. Minor infractions result in behavior reports and three behavior reports in one week will result in a privilege level



## **Chapter VI - Juvenile Correctional Facilities**

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drop. Major infractions such as fighting, stealing, etc. result in an incident report and may result in complete loss of all privileges, lodge and/or room restrictions, or short-term isolated confinement. Youths restricted to housing units are provided with academic tutoring, supervised recreation, and individual counseling. Youths must then work their way back up through the privilege system. Youths have the right to a due process hearing for any alleged major rule infractions. If the youth damages state or other youths property, they are assessed restitution. The amount of restitution is deducted from their personal account, or if the balance is not sufficient, up to 70 percent of future earnings while at the facility, are applied to the loss.

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### **Youth Releases are Based on a Number of Factors**

Decisions to release youths from the facilities are based on a combination of factors including treatment progress, ongoing behavior, placement options and the youth court commitment order. Counselors typically make the release determinations. At PHS, total youth population levels are also a factor in release decisions, in which case facility management staff may become more involved in determining who will be released.

Counseling staff are to prepare quarterly reports on each youth to determine their treatment progress. The reports which include input from cottage life and education staff are typically reviewed by the superintendent and other management officials. A quarterly meeting is held with the youth and various facility officials to discuss progress towards treatment goals and future placement options.

Prior to formal release from the facility and placement, youths typically participate in a pre-release trial leave. To obtain a trial leave, the counselor and the youth develop an aftercare agreement which outlines leave conditions and expectations the counselor has for the youth while on leave. Prior to any youth releases, counselors contact the regional juvenile parole officer who conducts an investigation of proposed placement circumstances such as housing, supervision, and other family matters. The investigation's purpose is to determine if the circumstances will promote a successful trial leave. If the parole officer does

## Chapter VI - Juvenile Correctional Facilities

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not approve of the placement or other aspects of a youth's release, the officer can deny the release, although this seldom occurs. Some youths may be released to the department's transition center in Billings or Great Falls, if home or other types of placements are not available. Most trial leaves are for 30-day periods. If the youth violates conditions of the aftercare agreement during the trial leave, they can be immediately returned to the facility for additional treatment. If the youth successfully completes the trial leave, they are placed in what is termed "aftercare status" and become the supervisory responsibility of the regional parole officer.

Some youths are determined to be inappropriately placed because the youth correctional facilities lack available treatment services for such issues as pregnancy, mental illness, or chemical dependency. In addition to those instances when inappropriate placements arise while youth are at the facility, we noted instances of youth being placed at PHS/MVS because of lack of resources and/or availability of preferred treatment facilities. For example, we noted cases where youth were placed at PHS until bed space became available at a private treatment facility.

In these circumstances, counselors seek alternative placements in facilities which can provide the needed treatment. Counselors must obtain approval for these placements from the applicable DFS regional administrator the same way juvenile probation officers do. In these circumstances, youths may or may not return to the facility following treatment completion, depending upon their age, condition, and alternate placement location.

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### Correctional Facility Security

Both PHS and MVS are considered secure youth correctional facilities whose primary mission is treatment of youths who have committed offenses that, if committed by an adult, would constitute a criminal offense. As such, both facilities have youths on campus considered a danger to either themselves or society. Although neither facility has perimeter security fences, youth movements are generally restricted to specific time periods, and monitored by security staff.

## **Chapter VI - Juvenile Correctional Facilities**

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### **PHS Security-Related Responsibilities are Extensive**

The role of security staff varies at the two facilities; however, their major function is to assist other staff in monitoring and when necessary, control of youths. At PHS, security staff conduct initial searches of youths committed to the facility, check mail and packages for contraband, observe youth movements, patrol campus, and assist in controlling disruptive youths. Additionally, they are the primary staff responsible for transportation of youths who are either being returned to PHS or are being transported to an alternate placement. Security staff are also responsible for organizing and conducting initial searches for youths who runaway from the facility. At PHS the security function is staffed 24 hours per day.

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### **MVS Security Responsi- bilities are Limited**

At MVS, the security function is not full-time; there are no security staff on campus four of the five weekdays. (See page 84 for further discussion of this finding.) MVS security personnel also are not responsible for conducting youth searches or examining mail and packages. Additionally, they are not typically responsible for the transport of youths being returned to the facility or other out-of-town placement locations. These functions are performed by other MVS staff.

During evaluation of facility records, we examined incident reports and youth grievance files to assess types of youth misbehavior, staff responses to youth activities, and number and type of runaways. The following table shows the number of runaways from both facilities in calendar year 1992, as well as the number of youths who failed to return to the facilities following authorized leave.

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Table 11

Correctional Facility Runaways  
January - December 1992

	<u>PHS</u>	<u>MVS</u>
Campus/Supervision <sup>1</sup>	66	13
Leave	28	27
Total	<u>94</u>	<u>40</u>

<sup>1</sup> Includes juveniles who "ran" while off-campus but were under the supervision of school officials.

Source: Compiled by the Office of the Legislative Auditor from PHS and MVS records

Based upon our review of case files and other documentation, we determined most runaway youth are apprehended shortly after absconding.

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### Correctional Facility Issues

During our performance audit work at the youth correctional facilities, we identified potential concerns in treatment-related activities, education, and security. We refer to American Correctional Association (ACA) standards as criteria for identifying deficiencies and recommending improvements to the quality of correctional programs and services. Although neither facility is ACA accredited, facility officials indicated use of ACA standards in formulating recent policies and procedures. Furthermore, the federal investigations conducted at both facilities utilized ACA standards to help measure adequacy of correctional management and facilities.

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### Treatment-Related Activities should be Better Defined and Documented

Our review of treatment identified several issues and concerns including treatment programs, release criteria, and case file documentation.

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### **Treatment Programs should be More Specific**

Counselors develop individual treatment plans for youths based upon assessed needs and program availability. We noted PHS and MVS do not have overall treatment goals and objectives to guide counselors in their development of treatment programs.

In addition, during our field work, neither facility had policies or procedures specifying how treatment plans should be developed. During review of case files, we found treatment plans often did not document or detail how specific treatment would be provided.

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### **Need for Evaluation of Treatment Effectiveness**

While counseling supervisors review case files for completeness, there was no formal evaluation of whether treatment activities prescribed by counselors were effective. Lack of overall documentation and evaluation of treatment activities made it difficult for us to determine or verify both an individual's treatment progress, as well as ascertain overall measures of facility treatment effectiveness. For example, many youth treatment plans indicated the need for the youth to learn to control their anger, for which the counselors subsequently specified treatment for anger management. However, treatment plans did not describe how anger management would be established and/or what techniques would be used to measure treatment effectiveness.

The ACA recommends a routine review process for assessment of the collective needs of all confined juveniles to assure appropriate availability of programs. The standards indicate the treatment review process should be based on management information. This data is obtained from identifying measurable treatment goals and methodologies as noted by progress specified in case file documentation. While counseling staff have various clinical meetings to discuss treatment, without definable treatment goals and measures of treatment effectiveness, there is no management information compiled or generated to measure the success of treatment programs and plans offered.



## Chapter VI - Juvenile Correctional Facilities

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### Recommendation #10

We recommend the Juvenile Corrections Division:

- A. Establish policy on treatment plan development.
- B. Evaluate the effectiveness of individual youth treatment plans.

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#### **Facilities should Establish and Document Youth Release Criteria**

Interviews with staff and observations of program activities indicated youth releases are determined by the counselor on the basis of length of commitment specified in the youth's court order, availability of placement, the youth's treatment status, and on-going behavior. However, there is no policy or procedure providing any type of guidelines for counseling staff to use for determining when to release youths from the facility. Review of case files and progress reports indicated limited documentation of reasons for release. As a result, it was difficult to assess whether youths were released based on treatment completion. Therefore, we were unable to determine if youths met treatment goals or if counselors are consistent regarding release decisions.

ACA standards suggest clear and explicit decision-making release criteria. Such criteria help ensure equity, as well as make possible an understanding of the process by the youth and public. Parole officers and parents also need to know the status of treatment progress upon youth release from the facilities in order to determine need for additional treatment.

#### **Release Decisions may not be Consistent or Equitable**

Facility officials primarily rely on the counselor's determination of when a youth is ready to leave PHS or MVS. This informal policy gives the counselor flexibility to address individual youth and circumstances. However, without documentation of reasons for release and policy guidelines, there is no assurance release decisions are fully evaluated or are equitable, relative to other counselors release decisions. In response to our findings, PHS officials indicated overcrowding is the primary reason for most

## **Chapter VI - Juvenile Correctional Facilities**

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releases, and development of release criteria without modifications to other aspects of the juvenile justice process would be counterproductive. MVS officials stated release decisions are often dictated by available resources such as placement alternatives. While overcrowding and available resources may be factors in release decisions, both facilities should establish guidelines for release of youths and document any variation from these standards.

### **Recommendation #11**

**We recommend the Juvenile Corrections Division establish criteria and subsequent documentation requirements for release of youth from the correctional facilities.**

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#### **Case File Documentation Standards are Needed**

At each facility we reviewed case files to identify documented treatment activities and decisions, as well as general content. Facility procedures require a youth's case file to include all legal documents, treatment plan, and various case progress reports. While reviewing case files, we noted files which did not contain all required reports and we found wide disparity in amount of detail included in counselor's treatment notes. As a result, we had difficulty determining case status and the treatment decision-making process.

ACA standards indicate need for juvenile files to contain all legal documents and all progress reports prepared during their stay. Such records facilitate effectiveness of service delivery to courts and offenders, and are useful for release planning and program evaluation. The immediate effect of incomplete case file documentation was noted when we reviewed case files of counselors no longer working at the facilities. We determined lack of detailed case notes was a problem for counselors who were assigned the prior counselors' case loads, and who could not readily determine what previous treatment/counseling had occurred when we asked about a youth's treatment history. The

## **Chapter VI - Juvenile Correctional Facilities**

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inconsistency of case file documentation appeared to be at least partly due to lack of formalized policies which provide standards for case file documentation. PHS officials stated intentions to utilize ACA-developed forms to better track and document case progress. MVS officials stated they are in the process of developing a new system of documentation.

### **Recommendation #12**

**We recommend the Juvenile Corrections Division develop and implement standards for case file documentation.**

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#### **Education-Related Activities Need JCD Examination**

We identified concerns with school records management information for educational programs, and the PHS youth industries program.

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#### **Facilities are Not Receiving School Records**

Section 52-5-108, MCA, specifies any youth committed to a DFS facility must be accompanied by school records. The Montana School Accreditation Standards and Procedures Manual, developed by the OPI, provides guidelines for transfer of school records between the enrolling school and the school previously attended by the youth.

During review of case files at MVS and PHS, we noted 21 of 60 youths sampled did not have school records from the prior school attended. Interviews with education staff indicated youth courts do not always send school records along with the youth when they are committed to MVS or PHS. Both MVS and PHS staff also stated they have had difficulty in obtaining records from some school districts. However, PHS and MVS school officials indicated they have not always documented their requests for records, nor do staff document any further follow-up after the first request.

## **Chapter VI - Juvenile Correctional Facilities**

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### **Lack of Records Causes Delays in Education- Related Treatment Programs**

By not having school records, the facilities do not have the benefit of prior academic achievement and evaluation when conducting educational testing and assessment. This can cause delays in assignment of classes while waiting for school records and/or increase the potential for inaccurate assessment of a youth's capabilities. Interviews with OPI officials also suggest there is potential for duplication of testing or even more importantly, possibility of inappropriate academic instruction.

A recent memo from the DFS director to all youth courts appears to direct facility staff to not accept youths without all the required records, including school records. Despite this, neither MVS nor PHS have been aggressively trying to get youth courts to provide school records at the time of commitment and, as a result, youth courts still send youths without the required records. The correctional facilities have also not aggressively followed up on this noncompliance issue. Facility officials also noted probation officers sometimes have difficulty obtaining school records because schools will only release records to another school.

Since the correctional facilities acknowledge this difficulty, the department should identify and work with those youth courts and school districts who appear to have difficulty complying with records submittal laws. The department should relate the importance of the timely submittal of school records for testing and assessment of youth. Additionally, the facilities should establish specific records follow-up procedures to help insure prompt educational assessments.

### **Recommendation #13**

**We recommend the Juvenile Corrections Division identify and work with youth courts and school districts to assure timely school records submittal.**



## **Chapter VI - Juvenile Correctional Facilities**

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### **Education-Related Management Information is Nonexistent**

Our review of facility management information found the facilities generated some population data; however, we did not find any education-related management information which allows for routine review of youth academic achievement. For example, no formal data is compiled or analyzed regarding average credits earned, types of classes taken, or the historical number of youths graduating or earning a GED. Additionally, there is no data compiled to assess youth needs relative to classes offered.

### **Effectiveness and Applicability of Education Programs is Unknown**

Without appropriate management information, it is difficult for MVS or PHS officials to formally verify and/or demonstrate how successful the school is in educating youth. Our interviews with facility staff suggested a need for full-time 12-month curriculums at the schools, and more vocational programs because many youths are academically behind and will likely never obtain high school diplomas or GEDs. However, since no data is compiled on educational programs, it is difficult to determine if staff contentions are valid and/or whether the educational portions of the facilities' treatment programs are adequate. Our review of youth case files and education programs did confirm many youths are academically behind and there are only a limited number of vocational-type classes for youths. Additionally, due to the reduction in number of classes offered during the summer and lack of alternative programs, there is more youth inactivity. According to staff at both facilities, this inactivity directly impacts the amount of direct care supervision needed and increases potential for escapes and/or violence.

ACA standards indicate the need for management information in the decision-making process. Performance evaluations of educational programs that measure program success and applicability are necessary for management personnel to make knowledgeable and informed decisions. Furthermore, ACA standards state pre-vocational training should be integrated with academic programs relevant to juvenile needs and employment opportunities. In addition, sections 52-5-101 and 102, MCA, require DFS to develop programs which educate and train youths.



## **Chapter VI - Juvenile Correctional Facilities**

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Based on this combination of criteria, PHS and MVS should be conducting a comprehensive analysis of education programs and youth population needs. This analysis could include review of such information elements as: assessment of individual and overall youth population need, average credits received during facility stays, diplomas and GED's awarded, and success of youth returns to their community school. However, there has not been an emphasis by the facilities or department to assess what types of information elements are the best measure of program applicability or success.

### **Recommendation #14**

**We recommend the Juvenile Corrections Division:**

- A. Conduct an educational program analysis and compile data on individual and overall student population needs at both youth correctional facilities.**
- B. Determine if education programs meet student needs.**

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### **PHS Industries Program Lacks Direction**

In 1991, the legislature authorized creation of industries programs at the correctional facilities to assist in youth training and rehabilitation. Examples of recent projects include the manufacture of survey stakes and construction of picnic tables for federal and state agencies.

Currently, the program does not have procedures for its operation, production has been sporadic, and there appears to have been an overall lack of program planning and supervision. PHS staff have indicated the program has not developed, partially due to lack of available projects. In addition, since its inception, program management has been assigned to personnel with a multitude of other responsibilities, and as a consequence there has been little active program management. We were unable to determine the training and rehabilitation effectiveness of the

## **Chapter VI - Juvenile Correctional Facilities**

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industries program due to informal and limited program development.

The legislature's intent for granting statutory authority for program establishment and rules was to assure consistent and active program management. To improve the program, PHS officials have stated they intend to review the Montana State Prison Industries program and hope to involve a community advisory board in the development and implementation of future industries projects.

### **Recommendation #15**

**We recommend the Juvenile Corrections Division:**

- A. Assess the training and rehabilitation value of the existing PHS industries program and determine future need.**
- B. If a need exists for an industries program, active management should be provided and comprehensive management controls developed.**

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### **Security-Related Staffing at MVS Needs Evaluation**

According to section 52-1-101, MCA, the purpose of the Department of Family Services is to provide for the care, protection, and development of youths committed to the department. We identified a youth/staff protection concern specific to MVS security-related staffing.

Since July 1, 1992, MVS has had boys on campus and a 90-day observation and assessment program for boys was implemented in March 1993. This program will likely increase the number of boys at MVS to 20 or more. As a result, MVS officials have re-designated who will be assigned to the cottages depending upon their security classification. However, only one cottage, Cottonwood, is considered secure in terms of being able to lock youths in their rooms.

## **Chapter VI - Juvenile Correctional Facilities**

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### **Cottages do not have Secure Rooms and There is Limited Staff at Night**

With the addition of boys, there is an increased potential for staff and youth safety concerns. As a result of boys being placed in the Cottonwood cottage, some girls who potentially would have been placed in this secure cottage will now be placed in the nonsecure cottages. During the 12 a.m. to 8 a.m. workshift, there is only one attendant in each of the cottages. This concern is heightened due to the existing structural limitations of the nonsecure housing. None of the remaining structures are designed or able to offer physical barriers between staff and youths, or youths and youths, should such barriers become necessary. For example, none of the existing rooms in the non-secure cottages can be locked, due to lack of observation windows on room doors. Additionally, because of the cottages' construction, there are "blind spots" which cottage staff must pass during room patrols, subsequently placing both youths and staff at risk.

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### **Security Coverage is Not Full-Time**

At present, MVS also does not have 24-hour security staff coverage. With the addition of boys to the campus, the limited amount of available secure housing, and the structural limitations of existing housing, it appears there is a need for full-time, 24-hour security. Based upon our review of incident reports at both facilities, boys committed to the juvenile correctional facilities are more prone towards violence and escape activity. When this potential is combined with lack of secure housing, a designated and trained security person should be on campus at all times. Without immediately available security, there is an increased risk concerning staff and youth safety due to potential youths' actions which nonsecurity staff may not be able to control.

### **Recommendation #16**

**We recommend the Juvenile Corrections Division re-examine current and future security requirements at MVS.**

## Chapter VII - Juvenile Aftercare

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### Introduction

Upon a youth's release from PHS or MVS, the Department of Family Services (DFS) generally retains supervision of the youths until expiration of the court order committing the youth to the department. From time of facility release until discharge from DFS supervision, youths are in aftercare status; more specifically, youths are on parole. We examined the Juvenile Corrections Division's (JCD) aftercare or juvenile parole function to identify and evaluate their role in the juvenile justice system.

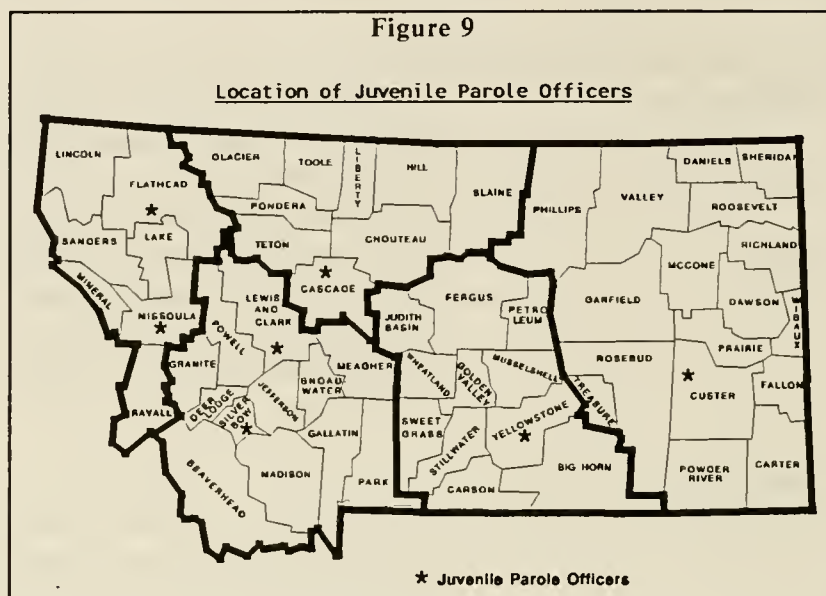
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### Youth Parole Function

Section 52-5-127, MCA, allows the department to continue to supervise youths following their release from a youth correctional facility. The JCD's juvenile parole officers are responsible for supervision of youths released from the correctional facilities until formally discharged by the department.

The department currently has six primary juvenile parole officers in five designated regions. In addition, the division has additional part-time officers in Butte, Missoula, and Great Falls to assist with caseloads in those locations. The following figure identifies the five regions and juvenile parole officer locations.

## Chapter VII - Juvenile Aftercare



Based upon our interviews and case file reviews, we found parole officer caseloads ranged from less than 20 youths in rural regions up to more than 45 youths per officer in the urban regions. Our review indicated caseload size does not totally describe juvenile parole officer workload, because their responsibilities also require considerable travel to supervise youths in outlying areas of their assigned region. For example, the parole officer in Miles City can spend more than ten hours traveling to supervise youths in towns such as Malta or Scobey.

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### Youth Release to Parole by Correctional Facilities

Juvenile parole officers are initially notified of a pending release from PHS or MVS by the youth's counselor in order to request a placement investigation. The parole officer typically conducts the investigation by reviewing case file information supplied by the correctional facility and interviewing the parents or guardians to assess the potential success of a youth's placement. Additionally, they are responsible for determining availability of any follow-up treatment required by the youth.

### Parole Officers Determine Placement Viability

If the juvenile parole officer determines the placement is acceptable, the facility counselor is advised, a release date is confirmed, and an aftercare agreement developed. The aftercare



## Chapter VII - Juvenile Aftercare

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agreement is a statement signed by the youth and counselor of the general terms and conditions of release, including a list of the acts, which if committed may result in a return to the facility. If the officer determines the placement is acceptable, but requires specific parole conditions, such as nonassociation with specified individuals, or employment, the conditions are communicated to the counselor for inclusion in the youth's aftercare agreement. If the parole officer determines the placement location or circumstances are unacceptable, the youth's counselor is notified and alternative placements are considered. Although our review suggests placement requests are seldom deemed unacceptable, reasons for placement denials generally include such officer-determined findings as lack of a proper supervisory environment or potential for abuse.

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### **Trial Releases are Used to Determine Placement Acceptability**

Nearly all youths released from the correctional facilities are given a pre-release trial period (usually 30 days) to determine placement viability. The youth and parole officer usually meet shortly after the youth's release to discuss terms of the aftercare agreement and establish a schedule of contacts. If during the trial period, the placement (monitored by the parole officer) appears to not be working as evidenced by aftercare agreement violations, the youth can be returned to the facility without appeal. During calendar years 1991 and 1992 there were approximately 155 instances of youths who were returned to the correctional facilities for failed pre-releases.

Upon completion of the pre-trial release period, the parole officer again contacts the youth to review placement viability and acceptability of the aftercare agreement terms. The terms or conditions of the agreement can be changed if deemed necessary by the parole officer.

Frequency of contact and supervision of youths by parole officers is typically based on a combination of the youth's ongoing treatment needs, and any law enforcement or parent-reported criminal activity or youth misbehavior. Assuming the youth complies with the terms of the agreement, supervision continues, usually at a decreasing frequency level, until the youth is discharged from the department.

## **Chapter VII - Juvenile Aftercare**

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### **Revocation for Parole Violations is Determined by Parole Officers**

During fiscal year 1991-92 there were approximately 60 instances of youths returned to the correctional facilities for violation of parole conditions. Revocations for parole violations (RPVs) are defined as youths returned to the correctional facilities after they formally come under parole officer supervision, which occurs after completion of the pre-release trial period.

Typically, parole officers base decisions for RPV on the significance of the violation. If, for example, the violation is a single occurrence of nonattendance at school, the parole officer would not send the youth back to the facility. If the violation includes criminal activities, or there are extensive minor violations and the officer's perceived opinion of the youth's attitude indicates future compliance is unlikely, the parole officer can begin proceedings to return the youth to the facility.

If noncompliance with the aftercare agreement occurs after the 30-day trial period, the youth has the statutory right to both legal counsel and a hearing to determine if a violation was committed and whether the violation warrants return of the youth to the facility. The hearing is conducted by a referee appointed by the department. Youths, upon advice of their attorney, have the right to waive the hearing process. Our review indicated most youths waive their right to a hearing, generally due to the amount or type of evidence compiled by the parole officer.

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### **Detention of Youth by Parole Officers**

Both during the pre-release trial period and formal parole period, the parole officer has the statutory authority to detain a youth if they violate terms and conditions of their aftercare agreement. Detention of youths while under parole supervision must be accomplished under the detention guidelines described in the Youth Court Act and outlined on page 27.

## **Chapter VII - Juvenile Aftercare**

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### **Youth Discharge from DFS Supervision**

Youths remain under supervision of the juvenile parole officer until the age indicated in the commitment court order, or sooner discharged by the department. The discharge process consists of two parts: 1) the parole officer forwards a recommendation to the department, and 2) the department director approves the formal discharge. We noted most department discharges occur when the youths reaches age 19, regardless of what age the youth was placed on parole.

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### **Transition Centers are Used for Selected Youths Released From the Correctional Facilities**

In some cases, juveniles released from correctional facilities cannot be placed back in their homes due to a variety of factors including: age, prior criminal activity, home environment, or need for additional treatment which can be provided in a less restrictive environment. The purpose of a transition center is to provide the "transitional bridge" between a correctional facility and a return to community living. Transition programs are offered to strengthen independent living skills that will allow a more successful return to a community. These skills may include instruction in how to find housing, understanding personal finances, and how to search for a job.

The division currently operates transition centers in Billings and Great Falls. The Billings facility has been in operation since June 1989. The Great Falls facility was originally established in July 1975 as the Youth Evaluation Program. Effective July 1, 1992, the department began to use the program for both juveniles needing psychological evaluations prior to their youth court disposition and as a transition center. The transition facilities are residential homes rented by the department and can accommodate eight youths each. The Billings transition center is for males only, while Great Falls is a coed facility.

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### **Parole Officers Supervise Transition Centers**

The transition centers are under direction of the regional juvenile parole officer. The centers have on-site facility supervisors to oversee staff who are classified as cottage life attendants. The transition center on-site staff consists of a total of five full-time staff in Billings. The Great Falls facility has four full-time and three half-time staff. The transition centers

## Chapter VII - Juvenile Aftercare

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are staffed 24 hours a day. The following table shows the number of youth referrals to the transition centers by the correctional facilities in the past one and one-half fiscal years.

Table 12			
<u>Transition Center Referrals</u>			
<u>July 1991 - December 1992</u>			
	<u>FY 1991-92</u>	<u>FY 1992-93<sup>2</sup></u>	<u>Total</u>
Billings	30	17	47
Great Falls	0 <sup>1</sup>	15	15
Total	<u>30</u>	<u>32</u>	<u>62</u>
<sup>1</sup> Not utilized as transition center until FY 1992-93.			
<sup>2</sup> July 1 - December 31, 1992.			
Source:	Compiled by the Office of the Legislative Auditor from transition centers' records		

### Length of Stay Varies

Length of stay at a transition center can vary depending upon youth treatment needs, alternative placement options, age, and number of youths in the juvenile correctional system. When the Billings center was initially established, only youths nearing their 18th birthday were to be placed in the transition center and maximum length of stay was to be limited to three to four months. However, our review noted youths as young as 16 being placed in the center and other youths staying at least one year. Interviews with transition center staff suggest length of stay at the Billings facility is about three months; however, our sample of records indicated an average stay of 43 days. Youths placed at a transition center have aftercare agreements with conditions and terms similar to those of other youths placed.

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### Juvenile Parole Functions Need Improvement

We identified several concerns about youth treatment and supervision activities. The following sections provide recommendations for improving the operation of the juvenile parole system.



## **Chapter VII - Juvenile Aftercare**

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### **Youth Detention Activities by Parole Officers Need More Oversight**

Section 41-5-103, MCA, defines detention as the holding or temporary placement of a youth for the purpose of ensuring continued custody. According to section 52-5-128, MCA, a youth who violates their aftercare agreement may be detained. However, once the youth is in detention, section 41-5-303, MCA, indicates a hearing must be held within 24 hours.

We determined parole officers have used juvenile detention facilities to not only hold youths until transported back to a correctional facility, but also as an intervention to treat/punish youths not complying with their aftercare agreements. These youths were not given a hearing prior to, during, or after their detention. The reason for detention according to the interviews is two-fold: sometimes the parole officers do not have time to determine why the youth was apprehended, so the officer leaves the youth in detention until finding time to investigate why law enforcement apprehended and detained the youth. Second, in some instances parole officers used detention as a form of deterrence. The lack of JCD supervision, policy, and training specifying the division's position on detention has contributed to use of detention as a deterrent.

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### **Potential Violation of Youth's Rights to Due Process**

According to the Youth Court Act (section 41-5-102, MCA), the approach to juvenile justice should be to remove the element of retribution associated with the adult criminal justice system. Further, detention facilities are licensed with the required provision that use of detention for punishment purposes is prohibited. Placement of youths in detention for any purpose other than awaiting a hearing and/or return to a correctional facility may be a potential violation of a youth's rights because they are denied due process. JCD officials should specifically define the appropriate use of detention by parole officers. JCD officials indicated written policy stating circumstances and purposes of detention, as well as detention alternatives, will be issued to all parole officers and will be emphasized in training.



## **Chapter VII - Juvenile Aftercare**

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### **Recommendation #17**

**We recommend the Juvenile Corrections Division establish specific, formal criteria for use of detention by juvenile parole officers.**

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#### **Return for Parole Violations Policy should be Improved**

During case file reviews, we noted inconsistencies in type and number of crimes for which youths are re-committed to the facilities. We also noted instances of the standard 30-day pre-release period being extended to 60 days, even though existing law relating to revocation of a youth's parole (section 52-5-129, MCA) does not specify either the correctional facility or parole officer can create or extend a pre-release period. Our review of DFS policies also revealed there are no detailed, overall policies specifying what conditions should be met, or the procedures to be followed for the revocation of a youth's parole.

At present, DFS policy states if a youth's violation of their aftercare agreement is of a "serious nature," the parole officer can proceed with the formal revocation process. The policy does not specify what types of crimes or violations are of a serious nature. We found significant variations in types and amounts of offenses youths commit prior to having their parole revoked, including examples of revocation for status offenses such as school absenteeism, possession of alcohol, and ungovernability. The Youth Court Act states offenses such as use of alcoholic beverages or behavior beyond the control of parents is not a criminal offense and a youth cannot be sent to a correctional facility as a result of these type of offenses. Similar criteria should be considered when parole officers are determining whether to initiate revocation proceedings. JCD officials indicated they intend to define what a serious parole violation constitutes and establish standards for the revocation process.

### Recommendation #18

We recommend the Juvenile Corrections Division establish specific policy for returning youth to the correctional facilities.

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#### Youth Discharge Process Needs Evaluation and Revision

At present, the parole officers do not generally perform any type of formal scheduled evaluation of the need for individual youths to remain under DFS supervision and there is no policy requiring such an evaluation. As a result, youths who committed crimes at an early age, (e.g. age 12) could potentially be on parole longer than adults who committed similar crimes. While parole officers stated they have little or no contact with youths who are not in trouble, these youths are on their caseload and remain the state's responsibility, even though the officers indicated there is often no reason for them to remain so. This portrays potentially inaccurate parole officer caseloads.

The Youth Court Act and DFS-related statutes specify a youth cannot be held in a correctional facility for a period longer than an adult can be held for a similar crime. A similar type of philosophy can be used once a youth is released from a correctional facility and placed in parole status; that is, a youth should not be on parole for any longer than an adult parolee for a similar crime. JCD officials should establish policy and procedures to assure scheduled evaluations of youths' need to remain under DFS supervision and begin discharge procedures for those youths who no longer appear to need DFS supervision. JCD officials have agreed to formulate policy to reflect a more equitable discharge procedure.

## **Chapter VII - Juvenile Aftercare**

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### **Recommendation #19**

**We recommend the Juvenile Corrections Division establish youth discharge evaluation policies.**

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#### **JCD Needs to Establish an Overall Mission for Transition Centers Related to Juvenile Corrections**

During our audit of DFS aftercare functions, our examination included evaluation of the youth transition centers in Billings and Great Falls. The JCD transition centers are used to help selected youth make the transition from a correctional facility back into a community-based setting. This is typically done by continuing treatment initiated at the correctional facility and by assisting youth in learning the skills necessary to live on their own. We examined the procedures for helping youths make the transition including: overall mission, youth treatment, and management controls.

We determined the transition centers do not have a formal mission statement or goals and objectives to guide staff in the provision of services for youth returning to a community. Rather, each transition center has evolved based upon the available resources in the respective community and direction of the transition center staff. As a result, the transition centers do not have consistent methods of operation and there is a lack of specific treatment methodology at both facilities. The following outlines deficiencies in treatment-related operations and activities:

- staff at both facilities establish treatment strategies, however the Billings center develops formal treatment plans, while the Great Falls center does not. Neither center comprehensively documents how staff incorporate treatment plans developed by the correctional facilities into the transition center treatment strategies.
- neither facility develops information on how successful treatment programs are relative to either continuation of programs initiated at the correctional facilities or in the transitioning of youth returning to the community. These

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types of programmatic measures would require increased communication and coordination with the correctional facilities and parole officers. Currently, this interaction is not occurring.

- there are only limited programs offered for independent living skills. For example, neither center requires youths to learn how to prepare or cook meals, and only employed youths must develop budgets and establish savings accounts. No instruction is provided on other skills such as filing taxes or obtaining insurance.
- staff at the correctional facilities and transition centers suggested continued participation in counseling and treatment would improve youths' chances for successful community re-entry. However, center staff also indicated it is difficult to obtain counseling for youths because of limited resources and waiting lists for services. Currently, neither center has youth counselors or programs to counteract this problem. Therefore, neither center has internal programs to address self-esteem, anger management, or problem solving, even though such treatment programs were usually initiated at the correctional facilities.
- a large percentage of the youths sent to the transition centers run away from the centers. For example, from June 1990 through June of 1992, 29 of the 59 youth referred to the Billings center "ran" while placed there. While we were not able to determine the reasons, staff believe many youth run away if they are forced into external programs such as attending school, counseling, etc. However, we noted almost all existing treatment programs are conducted outside the transition center and there is only limited supervision of youth to encourage attendance in these programs.

Based upon our findings regarding lack of specific measurable treatment plans, limited treatment availability, and the large number of youths who run from the centers, the JCD should re-evaluate the mission/purpose of the transition centers. This evaluation should include reviewing the applicability of both internal and external treatment programs, as well as the ability of existing staff to provide treatment and counseling. To improve youths' chances for successful community re-entry, JCD should determine if youth need more internal counseling and treatment similar to what was received at the correctional facilities, and whether such changes would reduce runaways. JCD officials should also require the transition centers to begin

## **Chapter VII - Juvenile Aftercare**

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compiling management information on youth transition programs. Upon completion of analysis, the JCD should establish mission statements and goals and objectives for the transition centers to help direct their purpose/role in juvenile corrections.

The JCD should require increased transition center communication and coordination with the correctional facilities and parole officers to help develop more consistent treatment programs and compile information on youth transition success.

### **Recommendation #20**

**We recommend the Juvenile Corrections Division:**

- A. Establish a formal mission for youth transition centers.**
- B. Evaluate the level and types of treatment required.**
- C. Require transition centers to increase communication and coordination with correctional facilities and parole officers regarding treatment and transition success.**

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### **Management of the Transition Centers Needs to be Evaluated**

The transition centers are managed by the Billings and Great Falls juvenile parole officers. We noted management control deficiencies including:

- limited formal policies and procedures guiding the centers' operations and substantial operational variations between the two centers.
- no management information compiled regarding operational or program activities.
- limited training of transition center staff.

Due to time and travel demands of the managing officer's parole caseload, we found management of transition centers consists primarily of telephone conversations and occasional meetings with center staff.



## Chapter VII - Juvenile Aftercare

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### **Current Managers have Other Duties which Limit Their Involvement**

When management oversight of this nature is combined with the lack of other comprehensive management controls, there is significant potential for inconsistent, if not inadequate delivery of services. We noted significant variations in how much of the treatment recommended by the correctional facilities' staff was incorporated into transition center treatment activities, as well as how the treatment activities were documented. We also noted the managing parole officers do not conduct any type of formal review or evaluation of youths' transition center treatment.

JCD officials concurred that consideration should be given to establishment of formal program and policy development. However, they noted establishment of these management controls would be dependent upon the future role of the transition centers in relation to the division's current emphasis on community-based treatment approaches.

Whatever purpose is decided upon for the transition centers, there should be an increased emphasis on management to assure a properly supervised environment which provides consistent delivery of services. Further, JCD officials should evaluate the ability of the juvenile parole officers to actively manage these facilities in relation to their other duties.

### **Recommendation #21**

**We recommend the Juvenile Corrections Division:**

- A. Establish additional management controls to assure consistent delivery of services at the transition centers.**
- B. Determine what type of transition center management is needed to implement management controls and administer delivery of services.**



# Chapter VIII - Miscellaneous Issues

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## Introduction

This chapter presents juvenile justice issues that affect its administration/operation. The following sections discuss the investigatory findings of the federal and advocacy groups, and existing management information system deficiencies. Appendix A provides a detailed description of the federal and advocacy group findings at PHS and our assessment of the findings and response.

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## Federal and Advocacy Group Investigations

During calendar 1992, both PHS and MVS were inspected/reviewed by representatives from the U.S. Department of Justice. The investigations resulted from complaints about alleged violation of youths' constitutional rights who were confined at these facilities. Also during 1992, representatives from various advocacy groups investigated PHS in response to concerns about the treatment and housing of youths under DFS supervision.

During the course of our audit work we reviewed the reports issued by the investigatory groups for PHS and accompanied the federal investigation team during their on-site examination of MVS. The purpose of our review was to establish the validity and magnitude of the investigation findings, identify what steps were taken by DFS to respond to the findings, and update the legislature on the current status of the investigations.

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## Federal Findings at PHS were Wide-Ranging

The federal investigation of PHS consisted of two on-site tours which concluded in January 1992. The investigation team consisted of two psychiatrists, a penologist with expertise in juvenile delinquency, a sanitarian, and a life safety expert. During the visits they conducted tours, interviewed staff, and reviewed numerous records and policies/procedures. The federal team identified five major areas or conditions which they believed violated the constitutional rights of the juveniles confined at PHS. The five areas include:

- security and supervision of youths.
- fire safety, sanitation, and building hazards.
- mental health care.

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- use of discipline.
- access to telephone and writing materials.

During our on-site audit work at PHS, we followed up on each of the federal findings noted via interviews with PHS officials and independent evaluation.

We found all but one of the federal findings to be valid in terms of the concerns noted. PHS officials responded to the concerns by closing the two lodges (Crazy Horse and Joseph) with the most structural deficiencies, increasing security personnel, and decreasing the ratio of staff to youths in the remaining lodges during those hours when youths are in the lodges. Additionally, a lodge-based team approach to youth treatment has been implemented to increase/improve staff to youth interaction. Regarding various structural/maintenance deficiencies, PHS officials, based upon our observations, appear to have addressed all areas identified by the federal team that could be addressed without significant expenditure of funds. Finally, PHS officials have changed policies and procedures concerning the use of seclusion and isolation as a form of discipline in response to federal concerns, those procedures now reflect ACA standards for this area.

PHS officials indicated disagreement with the federal finding regarding arbitrary limitations on telephone and writing material access. Our evaluation indicated the federal finding was incorrect. Based upon our review of the established policy on telephone calls and correspondence and youth grievance files, we did not identify concerns with youth access to either phones or writing materials.

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### **Montana Advocacy Group(s) Investigation of PHS Mirrored Federal Findings**

In a August 27, 1992, report to the PHS superintendent, the Montana Legal Services Association provided a description of the problem areas/deficiencies at PHS which needed correction. This association, working in conjunction with the Youth Law Center, Montana Advocacy Program, and Board of Visitors made several visits to PHS to talk with staff and youths, review files, and make general observations about facility operations and conditions. As a result of their visits, they identified a number

## Chapter VIII - Miscellaneous Issues

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of areas where they believed improvements could be made to benefit youths committed to the facilities.

The advocacy groups had concerns in several areas, but their findings reflect closely what was identified by the federal investigation team including: building deficiencies, supervision and treatment of youths; incomplete policies and procedures regarding isolation and use of restraints; fire safety issues; and medical and mental health concerns. During interviews with PHS staff, review of PHS policy and documentation, as well as our inspection of lodges, we assessed the validity of the advocacy group's findings and measure/determine the response of PHS to those findings. Overall, it is our opinion, that like the federal investigation report, the advocacy groups' findings, have merit.

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### **Investigation Findings have been Addressed by PHS Officials**

Due to the investigation reports' issuance dates relative to when the investigations took place, PHS had already made or proposed a significant number of changes to address the advocacy groups' and federal government's concerns. Based on our review, PHS has made a reasonable effort to address those findings. However, if expansion of staff in the existing lodges is not maintained, the facility does not obtain funds to address the noted infrastructure concerns, or facility officials do not enforce the policy and procedural changes, possibility of further legal actions concerning PHS remains high.

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### **Federal Findings at MVS were Similar to PHS Findings**

The federal report on MVS was issued in February 1993. The report outlined deficiencies in several areas including:

- mental health services.
- juveniles with disabilities.
- discipline.
- unsafe and unsanitary environment.
- inadequate resources.

Due to the timing of the on-site investigation and report issuance we were unable to fully assess or document what facility and procedural changes are proposed or have resulted from the findings of the federal team.



## **Chapter VIII - Miscellaneous Issues**

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### **DFS Management Information System**

At present the department does not have a comprehensive system for tracking/monitoring youths under DFS supervision.

Although the 1991 Legislature authorized funds to develop a management information system, the January 1992 special legislative session reduced the General Fund appropriations and changed the system development approach from a Department of Administration-designed system to development by DFS personnel. During the 1993 legislative session, DFS received additional funds in order to have an operating system in place by July 1995.

Although department officials indicate the management information system will include juvenile corrections functions, the early emphasis of system development will be on compliance with perceived federal medicaid requirements. As a result, we do not believe the department can specifically determine when the juvenile corrections portion of DFS will be included in the management information system.

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### **Juvenile Probation Information System**

The federal Juvenile Justice and Delinquency Prevention Act (JJDP) requirement for youth detention compliance monitoring is met in Montana through use of the Juvenile Probation Information System (JPIS) data collection system. The system does not have direct links to detention facilities. System input is provided by youth court probation offices in each district. JPIS information includes: a case number, gender and age, referral activity, offense charges, disposition, and detention activity. Initially, judicial district participation in JPIS was voluntary, because federal grant funds used to purchase computer equipment were provided over the course of several years. Effective July 1, 1992, the MBCC required JPIS participation by all judicial districts because of JJDP mandates regarding state monitoring of youth detention.

## Chapter VIII - Miscellaneous Issues

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### Annual Report on Crime in Montana is Inaccurate

In addition to using JPIS to meet federal reporting requirements, staff use JPIS data for the juvenile portion of the annual MBCC Report on Crime in Montana. The juvenile justice section of the report is intended to reflect Montana juvenile justice system activity such as total cases, referrals, offenses, and detention. However, division staff indicated data presented in the 1990 and 1991 annual reports was incomplete because not all judicial districts submit data for inclusion in the JPIS. The two nonparticipating districts both contained major urban areas. We noted these two districts receive a combined average of over 3,000 youth court referrals each year. The 1991 Report on Crime stated there were 5,972 youth court referrals because it is based only on data in JPIS and is not amended to compensate for nonparticipating judicial districts.

Additionally, JPIS only reflects detention activity from youth courts and not juveniles supervised by DFS. In this regard, detention of youths committed to correctional facilities or released to the department's parole system are not included in JPIS, because the system has focused on detention activities of youth courts. However, the JJDP Act requires juvenile detention compliance monitoring regardless of detention location or supervising authority.

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### JPIS has not been Fully Implemented

As a result of limitations noted by MBCC staff in the JPIS, we reviewed the system to assess the system's reliability in terms of reporting comprehensive statewide data. Based upon our interviews with 19 of the 20 judicial district chief probation officers and review of JPIS-generated reports, we noted several system deficiencies. They included:

- three urban districts which are not participating in JPIS.
- other districts only participating on a sporadic basis or only providing data on selected referrals.
- counties within judicial districts not submitting JPIS data.
- youth court probation offices duplicating compilation of data already compiled by JPIS.
- youth court probation office staff lack training and system knowledge on operation of JPIS.

## **Chapter VIII - Miscellaneous Issues**

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### **MBCC Staff have Initiated System Improvements**

Upon notification of our findings, MBCC staff indicated they have been in the process of improving the accuracy and usefulness of JPIS in several ways. These improvements have included conducting a workshop to identify probation offices' case monitoring and management information needs and creating computer software updates to address both federal and the judicial districts' needs. Additionally, MBCC staff have indicated they will assure judicial district participation by withholding grant funds from any district that does not submit the required JPIS data and compliance will be monitored via audits of data submittal. MBCC staff also stated they have been in contact with DFS Juvenile Corrections Division officials regarding reporting of detention activities by JCD staff.

The ongoing JPIS system update efforts and mandate for full participation in the system by youth courts should improve completeness of JPIS data. However, if system updates are not fully implemented and/or all judicial districts, as well as DFS, do not fully participate in the input of data, the various annual reports compiled using JPIS data will continue to be inaccurate. The effect of which will be to potentially mislead the legislature, federal government, applicable state agencies, and public on amount and type of juvenile crimes committed, as well as youth detention activities in Montana.

Due to federal and state requirements regarding youth detention, we believe the MBCC should consider seeking legislation requiring JPIS data from both youth courts and DFS. This data collection requirement; however, should be supplemented with an increased emphasis on providing users with training and providing reports which supply useful information in terms of their operations.

## **Chapter VIII - Miscellaneous Issues**

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### **Recommendation #22**

**We recommend the Montana Board of Crime Control:**

- A. Seek legislation requiring youth court and DFS participation in the JPIS.**
- B. Increase emphasis on JPIS user training and report development.**





# Chapter IX - Conclusion

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## Introduction

Based upon American Corrections Association standards, a juvenile justice system should have the following features or components:

- common, measurable goals and objectives which outline short and long-term direction.
- integrated and measurable programs, with policies, and procedures which are understood by all system participants.
- a comprehensive management information system that allows for quantifiable analysis of current and proposed program activities throughout the system.
- procedures for comprehensive communication and coordination between system components and participants.

During the audit of juvenile justice in Montana we noted deficiencies which limit the abilities of the current structure relative to how a system should be structured.

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## System Deficiencies

Currently, Montana has a juvenile justice structure which is composed of interrelated, but independent entities: youth court, correctional facilities, parole, and various administrative entities. Due to lack of formalized, overall administrative oversight, the entities have evolved or developed with little regard for the needs of the system as a whole. Subsequently, while each entity must, in one way or another, rely on the other entities, there is no mechanism for assuring consistency, or clear and coordinated actions. The deficiencies noted throughout this report have adversely affected the entire structure. As a result, over the past several years there has been a growing polarization between the entities. This is evidenced by:

- probation officers' concerns with DFS treatment services and placements.
- use of determinate sentences by youth court judges as a reaction to youths' length of stay in correctional facilities.
- DFS officials' concerns with youth courts use of DFS-funded resources.
- lack of management information and data collection by youth courts, DFS, and MBCC.

## **Chapter IX - Conclusion**

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Additionally, there is a lack of communication and coordination not only between youth courts and DFS, but DFS and MBCC/YJC as well. For example, DFS did not participate in regional detention plan development which could have assured future detention facility availability.

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### **Role of the Juvenile Corrections Division**

DFS took over administration of the correctional portion of the juvenile justice system from the Department of Corrections and Human Services in 1987. From 1987 to July 1991, the correctional facility superintendents reported to the department director and the parole function was supervised by regional administrators. However, we determined supervision provided by the director and regional administrators of these entities was limited. This has been confirmed by our findings regarding the historical lack of comprehensive management controls for the DFS entities. With creation of the Juvenile Corrections Division in July 1991, department officials hoped centralization of functions would allow establishment of uniform, consistent delivery of DFS corrections-related services. The division was also established to initiate more coordination and communication between the department and youth courts.

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### **Lack of Emphasis on Basic Management Controls**

Based upon our interviews and audit work, division emphasis has not been on establishing management controls or expanding day-to-day communication and coordination with the youth courts. Rather, the emphasis has been on implementing a new approach to operation of the entire juvenile justice system. Although our audit work has shown a need for fundamental system reforms, there have been detrimental effects from not establishing strong management controls. Some of the effects include:

- no overall treatment approach or philosophy to guide division staff due to the lack of comprehensive goals and objectives.
- wide variations in the day to day operational and administrative approaches to staff and youth supervision due to the lack of comprehensive policies and procedures. This has resulted in concerns regarding consistency and provision of treatment services and significant communication problems between the correctional facilities and parole function.

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- personnel at all levels in the division who have not received timely performance appraisals and/or training to help improve their treatment-related services.
- an overall lack of division data about programs and operations which would allow measurement and evaluation of the effectiveness of the division's assigned activities.

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### System Communication and Coordination has been Limited

The above effects have not only adversely impacted operations of the correctional facilities and the parole function, but also the youth courts. There has been a lack of communication and coordination between DFS and youth courts. This is at least partially due to components within the JCD not providing a consistent delivery of services and not fully communicating with youth courts when changes have been made in those services. For example, within the past year changes have been made in treatment approaches used by the correctional facilities. These changes involved implementation of the Strategies for Juvenile Supervision (SJS) classification and treatment system. When SJS was introduced in early 1992, JCD emphasis was on the need for SJS to be used by all entities in juvenile justice--probation through parole. The intended purpose was to establish a consistent continuum of youth treatment. Division officials initially stressed the need for probation officers to use SJS for the classification system to be fully effective. However, SJS was initially introduced and implemented with little or no input from the probation officers who were supposed to use it, and only a few of the state's probation officers have been trained in how to use SJS. Subsequently, only a limited number of probation officers use the SJS system.

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### Management Information System Summary

Throughout our audit of the juvenile justice system we were hampered in our ability to evaluate the system's components due to lack of information on program operations and outcomes. We acknowledge compiling management information is a time-consuming and cumbersome process if done manually. However, given the current limitations of the JPIS, and relative lack of other automated systems for data collection at the youth court and DFS levels, we believe there must be an increased emphasis on management information. For example, although there is no

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centralized management information system which allows for compilation of data from all system components, each component has the technology (via microcomputers) to collect, compile, and analyze data from their individual activities. Additionally, this computerized data could be forwarded to a designated agency for purposes of system-wide analysis.

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### JCD System Reform

In October 1991, correspondence between division officials and the department director noted many of the deficiencies we have discussed throughout this report. The division and department's perceived solution for many of the problems was a reform of system functions. The major reforms implemented or in the process of being implemented include:

- SJS was introduced to establish consistent and uniform youth classification.
- the correctional facilities changed their treatment approach from an individual counselor providing clinical treatment, to a team concept including all facility personnel involved in youths' care and supervision.
- using a report from the Center for the Study of Youth Policy on number of youths who were inappropriately placed in the correctional facilities, division officials began investigating how to initiate usage of secure care guidelines to address the report's contentions.
- division officials have provided presentations and training to six pilot judicial districts regarding implementation and use of secure care guidelines.
- in anticipation of the guidelines being used by youth courts who commit the bulk of youths to correctional facilities, division officials have downsized the capacity of PHS and established a 90-day observation and assessment program at MVS.



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### Planning for System Reforms Does Not Specify Details

The reform efforts are based upon the division's perceived need to reduce the number of commitments to the correctional facilities by expanding use of community based services as an alternative to correctional facility commitments. However, throughout the division's reform efforts there has never been a formal plan which details the specific purpose of the reforms, how they will be implemented and funded, contingency options, or what will be used to measure the reforms' impact/success.

According to representatives from the Center for Study of Youth Policy, successful implementation of secure care guidelines and the subsequent reductions in facility commitments is dependent upon availability of placement options to the youth courts. If PHS or MVS are the only placement options, secure care guidelines have no value, and therefore will not be utilized. If the secure care guidelines are not utilized, Montana will have a downsized juvenile corrections system which is not capable of serving the needs of the youth courts, and subsequently the public in general.

The secure care guidelines pilot project is to operate for approximately six months, with the youth courts and division officials making ongoing adjustments. It is proposed the guidelines will be established on a statewide basis sometime during the summer of 1993. However, based upon our interviews with probation officers, JCD officials have not consulted with the nonparticipating judicial districts about their reform efforts, and as of March 1993 our review determined voluntary use of secure care guidelines by all youth court judges in the pilot districts is speculative. Additionally, establishment of community-based services to be used for alternative placements in the pilot districts is limited due to existing funding and service provider resources, and there are no established policies and procedures for any of the proposed programs. DFS received \$300,000 in General Fund money for the 1995 biennium to emphasize community-based options. However, there is no formal plan for how this money will be spent or what options are available relative to community-based services.



## **Chapter IX - Conclusion**

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### **Conclusion**

At present, juvenile justice in Montana is in a state of transition. The structure's administration and effectiveness is limited due to lack of comprehensive management controls and a management information system to compile data on effectiveness. Additionally, reforms are occurring, for the most part, without a formal planning process. For the system to be able to demonstrate efficiency and effectiveness, management controls such as goals and objectives, consistent policies and procedures, and a management information system must be initiated. Additionally, reforms must be properly planned and communicated to all affected entities prior to their implementation. The administration of juvenile justice as presently organized, involves both the judicial and executive branches of government. Subsequently, there is no administrative entity with authority to assure and enforce a coordinated, comprehensive system.

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### **The Governor Can Shape the Future of Juvenile Justice**

As a result of the current change from facility-based to community-based youth services and the fundamental problems identified, it is necessary to establish the system's future direction and identify the roles of the various participants. While there are various advisory groups (Board of Crime Control and Youth Justice Council) which can provide input on system development, the Governor is in the best position to establish the future role of DFS in juvenile justice as well as help direct the system's overall future. For example, the Governor could address DFS coordination with the youth courts, current treatment capabilities, the role and conditions of the youth correctional facilities and transition centers, as well as the importance of community-based services to overall system operation. Increased executive branch direction and support for juvenile justice will also help define what information elements are needed to develop a comprehensive management information system which can then be used to measure the success of juvenile justice in the future.

### Recommendation #23

We recommend the Governor implement necessary changes to bring about more effective administration of Montana's juvenile justice system.



## Agency Responses

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The Supreme Court of Montana  
Office of the Court Administrator



PATRICK A. CHENOVICK  
Court Administrator

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May 14, 1993

Mike Wingard  
Performance Audit Manager  
Office of the Legislative Auditor  
State Capitol  
Helena, Montana 59620

Dear Mike:

Herein is the Judiciary's response to your final audit report of juvenile justice in Montana as it relates to the Judicial Branch. Our response is limited to chapter III - Youth Court Operations and audit recommendations stated there in.

Recommendation #1

We recommend the legislature:

- A. Provide statutory authority to administer a juvenile probation officer training program which includes approval of curriculum and classes to either the MBCC or the Supreme Court.

Response: We concur that statutory training be provided to probation officers, we do not concur that the Supreme Court do the training.

Certified probation officers training is not a function of the Judiciary. While the court may appear to be a place that certified training should be centered, and reference is made to the statutorily required training for judges of Courts of Limited Jurisdiction, this recommendation properly belongs to the Department of Justice, of the executive branch.

The training of judges is statutorily required due to the fact that these individuals can be non-lawyers. A judge has the power to deprive an individual that commits a crime of their freedom by incarcerating them, a powerful infringement on their constitutional rights. A probation officer can recommend that someone be returned to jail but cannot actually order them there.

Recommendation #2

We recommend the Supreme Court and DFS establish parental contribution procedures to insure youth court compliance with the law requiring documented consideration of parental contributions.

Response: We partially concur

The Supreme Court by the Montana Constitution, Article VII, Section 2, sub (2) and (3) gives the Supreme Court "general supervisory control over all other courts." and allows the Supreme Court to "... make rules governing appellate procedure, practice and procedure for all courts, ... Rules of procedure shall be subject to disapproval by the legislature in either of the two sessions following promulgation."

The Supreme Court would entertain a proposal from DFS in unison with the youth courts on procedural rules regarding establishing parental contribution to enhance the law requiring the same. The Supreme Court does not have staff nor has the Court in the past drafted procedure rules for their own review. The drafting of procedures to be adopted by the Supreme Court needs to start in the area where day to day activities occur.

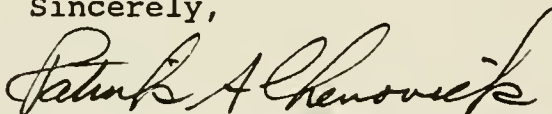
Recommendation #3

We recommend the Supreme Court in unison with the youth courts work towards a management information system which includes data on youth court programs.

The Supreme Court has embarked on statewide automation of court functions. Due to very limited funding provided by the legislature only 33 district courts have been automated. As funding will allow, the functions of the courts will be automated. The Supreme Court is committed to automation and using this automation for management information.

If I can be of further assistance, please advise.

Sincerely,



Patrick A. Chenovick  
Supreme Court Administrator

cc: J. A. Turnage

# DEPARTMENT OF FAMILY SERVICES



MARC RACICOT, GOVERNOR

(406) 444-5900  
FAX (406) 444-5956

## STATE OF MONTANA

HANK HUDSON, DIRECTOR  
JESSE MUNRO, DEPUTY DIRECTOR

PO BOX 8005  
HELENA, MONTANA 59604-8005

June 3, 1993

TO: Mike Wingard, Performance Audit Manager  
Office of the Legislative Auditor

FR: Hank Hudson, <sup>thk</sup>Director

RE: Audit/juvenile justice

Enclosed is a response to the recommendations in the published audit report. If you have questions, please let me know.

enclosure

# DEPARTMENT OF FAMILY SERVICES



MARC RACICOT, GOVERNOR

(406) 444-5900  
FAX (406) 444-5956

## STATE OF MONTANA

HANK HUDSON, DIRECTOR  
JESSE MUNRO, DEPUTY DIRECTOR

PO BOX 8005  
HELENA, MONTANA 59604-8005

May 14, 1993

TO: Hank Hudson, Director

FR: Al Davis, Administrator  
Juvenile Corrections Division

RE: Performance Audit  
Office of the Legislative Auditor

A handwritten signature, likely of Al Davis, in dark ink.

The following is a follow-up response to the exit interview with the legislative auditors referencing the "draft" performance audit:

Page 19 (table 1) I have had difficulty mitigating the FTE count as listed in this table; Current counts read as follows:

	<u>PHS</u>	<u>MVS</u>
ADMINISTRATION	10.5	7
FOOD SERVICE	4	4.5
MAINTENANCE	11	4.5
COUNSELORS	11	6
MEDICAL	3.5	1.5
EDUCATION	19	10.45
SECURITY	7	6
COTTAGE LIFE	48	24
RECREATION	4	2
<u>TOTAL</u>	<u>118</u>	<u>65.95</u>



The MVS Organization Structure (figure 4, page 18) is no longer current. The Assistant Superintendent position has been eliminated and the funding for that position re-allocated to increase line staff. New supervisory responsibility is in the process of being shifted to other staff at this time.

**Recommendation #4 - We recommend the Juvenile Corrections Division emphasize development and implementation of management controls.**

The Department agrees with this recommendation. DFS is currently reviewing the total organizational structure of the Department to strengthen management controls. Consideration is being given to enhancing these controls through closer affiliation with DFS regional personnel. A July target date is anticipated for completion of this task. Quality assurance is built into the Division of Corrections work plan to provide a means of measuring impact.

**Recommendation #5 - We recommend the Juvenile Corrections Division:**

- A. Require collection of youth transportation management information from the juvenile correctional facilities and juvenile parole officers.
- B. Evaluate current transportation operations to determine the most effective method of transportation of youth in the custody of the Department of Family Services.

The Department agrees with this recommendation. Current division staff of lower grades are being considered to provide the majority of youth transporting. Consideration is also being given to contracting for this service. The transportation issue is built into the Division work plan.

**Recommendation #6 - We recommend the Department of Family Services fully comply with Youth Placement Committee statutes or seek legislation to eliminate or modify the function.**

The Department agrees with this recommendation leaning towards seeking legislation to eliminate the functions. Other means of "gate-keeping" are being tested to insure that required information is being considered for placement decisions prior to youth court. A target date of October has been established to accomplish this experiment.



**Recommendation #7 - We recommend the Department of Family Services improve Interstate Compact on Juveniles administration by:**

- A. Requesting the Governor designate an ICJ administrator.**
- B. Developing/distributing procedures and conducting training on compact operations.**

The Department agrees that the time required to process incoming and outgoing ICJ requests draws heavily from supervisory duties assigned to the staff person currently providing the service. Efficient and effective administration of the compact, and the enforcement of statutory requirements should be done through a position that has an administrative status recognized by the compact participants.

Methods and materials for training of compact participants have been developed and will be presented to the national training committee for approval in August, 1993. Training to state designated ICJ contract personnel will occur shortly there-after.

**Recommendation #8 - We recommend the Juvenile Corrections Division establish a formal policy and procedures for collection of court-ordered restitution.**

The Department agrees that the area of restitution procedures needs immediate attention. It is further felt that adequate response to the issue may require legislation to insure that court ordered demands are reasonable and that the sanction is consistent throughout the state. Monitoring restitution payments is being included as an area to include on the Management Information System planning.

**Recommendation # 9 - We recommend the Juvenile Corrections Division establish a consistent policy and procedures requiring a comprehensive background investigation.**

The Department agrees with this recommendation and a standardized policy regarding background checks will be accomplished as other policies are being reviewed and modified. October of this year has been established as the target date for policy review, development, and modification completion.

Table 7 (page 63) - Crazy Horse Lodge was closed in 1987 rather than the listed 1980.

**Recommendation #10 - We Recommend the Juvenile Corrections Division:**

- A. Establish policy on treatment plan development.**
- B. Evaluate the effectiveness of individual youth treatment plan**

The Department agrees with these two recommendations. Accompanying the need for T.P. policy development is the demand to enhance the whole area of quality assurance. Q.A. is included on the division of corrections work plan for all areas of division involvement.

**Recommendation #11 - We recommend the Juvenile Corrections Division establish criteria and subsequent documentation requirements for release of youth from the correctional facilities.**

Although population will continue to be a driving factor as to impacting length of stay for incarcerated youth, the Department recognizes a need for insuring equity in making that placement determination. A projected release should be included in the initial treatment plan with required tasks to perform in order to qualify for release on that date. This task will be built into the division work plan.

**Recommendation #12 - We recommend the Juvenile Corrections Division develop and implement standards for case file documentation.**

The Department agrees with this recommendation and is in the process of establishing standards for file maintenance using American Correctional Association standards as a guide.

**Recommendation #13 - We recommend the Juvenile Corrections Division identify and work with youth courts and school districts to assure timely school records submittal.**

The Department agrees with this recommendation. The Office of Public Instruction has offered their support and provided direction to accomplish.

**Recommendation #14 - We recommend the Juvenile Corrections Division:**

- A. Conduct and compile data on individual and overall student population needs.**
- B. Determine if education programs meet student needs.**

The Department agrees with this recommendation. Division reform is going to require major emphasis on management information gathering sophistication at all levels of programming.

**Recommendation #15 - We recommend the Juvenile Corrections Division:**

- A. Assess the training and rehabilitation value of the existing PHS industries program and determine future need.**
- B. If a need exists for an industries program, active management should be provided and comprehensive management controls developed.**

The Division is currently examining the overall academic/vocational programming at the secure-care facilities. New legislation opens the door to develop and implement an alternative school approach placing the emphasis on fitting delivery to relevant needs. The industries concept would be included in this activity.

**Recommendation #16 - We recommend the Juvenile Corrections Division re-examine current and future security requirements at MVS.**

The Division has included in its work plan a major downsizing at the Mountain View Facility with function modifications. All staffing patterns are being examined to insure adequate coverage in all areas of facility activity.

**Recommendation #17 - We recommend the Juvenile Corrections Division establish specific, formal criteria for use of detention by juvenile parole officers.**

The Department agrees with this recommendation. Training has already been established regarding legitimate utilization of Detention Centers.

**Recommendation #18 - We recommend the Juvenile Corrections Division establish specific policy for returning youth to the correctional facilities.**

Technical violations create the most difficulty in standardizing revocation procedures. The division intends to identify/develop an array of sanctions to utilize at the community level for these types of actions. It is proposed that any youth involved in committing (felony) offenses be considered for placement at the correctional facilities at the discretion of the Youth Court.

**Recommendation #19 - We recommend the Juvenile Corrections Division establish youth discharge evaluation policies.**

The Department agrees with this recommendation. Historical discharge recommendations at the age of majority does not seem to be appropriate for all youth.

**Recommendation #20 - We recommend the Juvenile Corrections Division:**

- A. Establish a formal mission for youth transition centers.**
- B. Evaluate the level and types of treatment required.**
- C. Require transition centers to increase communication and coordination with correctional facilities and parole officers regarding treatment and transition success.**

The Department agrees. July 1st has been established as the target date for resident profile decisions. Consideration is also being given to operating day-treatment programs in concert with residential services.



27 93

STATE OF MONTANA  
**DEPARTMENT OF JUSTICE**  
**BOARD OF CRIME CONTROL**

303 North Roberts - PO Box 201408 - Helena, MT 59620-1408

Joseph P. Mazurek  
Attorney General



Phone (406) 444-3604  
FAX (406) 444-4722

May 24, 1993

Mike Wingard, Performance Audit Manager  
Office of the Legislative Auditor  
State Capitol  
Helena, MT 59620

Dear Mike:

The performance audit of the juvenile justice system was well done. While only a few of the audit's recommendations pertain specifically to the Montana Board of Crime Control and Youth Justice Council, the entire audit report is of interest particularly your recommendation (#23) for Executive leadership.

The recommendations that do directly concern MBCC are #1 and #22.

Recommendation #1 is appropriately made and perhaps ought simply to specify the Board of Crime Control rather than offering choice of agency or branch of government. The Peace Officer Standards and Training (POST) Council of the Board already performs these functions for law enforcement. Given statutory authority it would not be difficult to encompass the juvenile probation officers. A standardized and potentially acceptable curriculum is available from the National College for Juvenile and Family Court Judges. Our existing automated POST management information system can be easily modified to include juvenile officers. Should the Legislature give the Board authority in this area, rules would be promulgated to address the problems of certification/decertification, failing to pass, equivalency from other courses/states, etc. I must note to you though, the POST functions of the Board have expanded in recent Sessions to include adult probation/parole, emergency communications officers and coroners. Those expansions have been absorbed at no additional cost to the state. We are now, however, at the point where the workload exceeds our capacity. Should this recommendation be implemented, a budget impact will be noted in the next Session. I anticipate that the training will actually be accomplished prior to the next Session. The formal setting of standards via ARM would probably be completed within 6 months of the effective date of any legislation authorizing the Board to act.



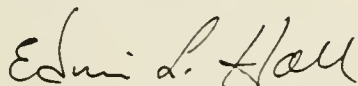
Mike Wingard, Performance Audit Manager  
Office of the Legislative Auditor  
May 24, 1993  
Page 2

I concur with Recommendation #22. It has basically been attained. The JPIS information system has been re-written and placed, at this writing, in 20 of the 21 youth courts. The 21st, (Great Falls) is cooperating with MBCC to either develop bridges to JPIS to assure the data is transferred or to use directly JPIS itself. An initial determination should be made before the end of this month. This will then offer 100% participation. Increased user training has already been undertaken and will be a requisite part of a position whose primary responsibility will be the management of JPIS. (Audit of JPIS records will also be a part.) At this writing, a phone survey of juvenile probation offices is underway to determine which reports from the database will be most helpful to local offices. These will be incorporated into on-going updates to the JPIS program. I must note, though, that JPIS is not a case management system. It exists primarily to provide compliance monitoring data. While it can serve as a scaled down case management system, it is just that. As DFS develops its management information system "hooks" between JPIS and the DFS system are needed. MBCC staff initiated contact with DFS to assure some compatibility or, at best, the incorporation of one system into the other.

If legislation is truly needed to assure compliance in reporting it will be sought in the next regular session.

Thank you for the opportunity to respond to your recommendations and on behalf of the Board, I thank your office for all the effort put into this performance audit.

Sincerely,



Edwin L. Hall  
Executive Director

cc: John Pfaff  
Candy Wimmer  
Gene Kiser

# OFFICE OF THE GOVERNOR

STATE OF MONTANA



MARC RACICOT  
GOVERNOR

STATE CAPITOL  
HELENA, MONTANA 59620-0801

June 4, 1993

Mike Wingard  
Performance Audit Manager  
Office of the Legislative Auditor  
State Capitol  
Helena MT 59620

Dear Mike:

Thank you for the opportunity to respond to the recommendations of the performance audit of the juvenile justice system conducted by the legislative auditor's office. I am genuinely impressed with the thoroughness of the audit. The information obtained from this report will be of great value to my office and the juvenile justice service providers of Montana as we strive to improve the system.

Rather than address each of the recommendations of this report individually I will respond to the predominant concerns identified.

The lack of a formalized overall administrative oversight which has contributed to a polarization of the system components was one of the motivating factors in the creation of the Department of Family Services. As you know, the inclusion of Youth Courts into that department met with extreme resistance from the legislature and was eventually dropped from the legislation creating DFS. I do not see that as a viable option at this time. Further complicating the administrative capacity of juvenile justice as it relates to the Juvenile Corrections Division has been turnover in leadership of DFS. Celebrating it's sixth birthday this year, the department has experienced direction from six directors. I am confident that under the direction of Hank Hudson, consistency in the overall administration of the Department of Family Services will be achieved.

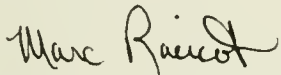
I strongly believe coordination and communication between the system components in developing a comprehensive plan for system improvement can be accomplished through existing structures. The Juvenile Justice Council is appointed by executive order to serve

Mike Wingard  
Page 2  
June 4, 1993

as a planning and advisory group for juvenile justice. The recent appointments to the Council provide a broad representation from both private and public sectors, including the Department of Family Services, Corrections and Human Services, and the Office of Public Instruction. The Council is to report to my office on policy matters related to juvenile justice and to advise state, local and private agencies on juvenile justice in order to better coordinate services and to more efficiently utilize available resources. I have requested regular reports from the Council with particular emphasis to be given to the progress made regarding each of the recommendations of the performance audit. Further executive action will be based upon the information received from the Council.

I am advised that progress is being made in many of the areas noted as deficient in your report. Be assured I am most concerned with providing a system of juvenile justice which appropriately and adequately treats Montana's youth and their families.

Sincerely,

A handwritten signature in cursive script that reads "Marc Racicot".

MARC RACICOT  
Governor



## Appendix A

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## Appendix A

### Federal Investigation Findings-Pine Hills School

#### INTRODUCTION

During calendar 1992, both PHS and MVS were inspected/reviewed by representatives from the U.S. Department of Justice. The investigations resulted from complaints about alleged violation of youths' constitutional rights who were confined at these facilities.

During the course of audit work at the correctional facilities we reviewed the subsequent report issued for PHS and accompanied the federal investigation team during their on-site examination of MVS. The purpose of our review was to establish the validity and magnitude of the investigation findings, identify what steps were taken by DFS to respond to the findings, and update the legislature on the current status of the investigations.

#### Federal Findings - PHS

The federal investigation of PHS consisted of two on-site tours which concluded in January 1992. The investigation team consisted of two psychiatrists, a penologist with expertise in juvenile delinquency, a sanitarian, and a life safety expert. During the visits they conducted tours, interviewed staff, and reviewed numerous records and policies/procedures. The federal team identified five major areas or conditions which they believed violated the constitutional rights of the juveniles confined at PHS. During our on-site audit work at PHS, we followed up on each of the federal findings noted in the report through interviews with PHS officials and independent evaluation. The following outlines the five major findings, the PHS response, and our assessment of the finding and response.

#### 1. Security and Supervision

##### Federal Finding:

"Staff is both insufficient to properly supervise juveniles and to maintain the facility in a manner which does not present serious security risk." The noted lack of supervision was reported by staff who used youth "strobing" as an example of insufficient supervision. Strobing is the insertion of a metal object into an electrical outlet in order to receive an electrical shock.

##### PHS Response:

The PHS Superintendent has indicated they have increased security by 0.5 FTE to increase youth supervision. In addition, with the movement of counselors to the lodges, they have developed treatment teams for each lodge. The Superintendent also closed Joseph Lodge in December 1992, and indicated the remaining treatment teams would be expanded by increasing the number of recreation and nursing staff. The closure of Joseph also allowed for expansion of the number of staff in each lodge during the hours of 3:00 p.m. and 11:00 p.m. when most youth are in the lodges.

To address the issue of strobing, the Superintendent indicated they are in the process of removing outlets from various locations in Sundance and Range Rider Lodges where the alleged incidents took place.

OLA Assessment:

The federal report does not specify what types of staff are insufficient to supervise and maintain the facility. The entire basis of their concern appears to be a staff-reported incidence of "strobing." They did not provide any other specific examples of where staff are insufficient.

An inspection of Sundance and Range Rider indicated PHS maintenance personnel have de-activated some outlets. Although, an inspection of one youth's room revealed black smoke residue around an outlet, suggesting the strobing allegation may have some validity. The superintendent indicated all unnecessary outlets would be removed and other outlets monitored more closely.

The issue of increased staffing claims by PHS is more problematic. While they have indeed increased security staff by 0.5 FTE, at least one security person spends a minimum of three days a week transporting youth to and from PHS. As a consequence, the presence of security is based upon transportation requirements. Also, while the treatment team concept does increase the number of staff in the lodges during part of the day, during our review there was no additional staff in the lodges during the busiest times: 3:00 p.m. to 11:00 p.m. The Superintendent's plan to increase staff continues to be contingent not only on the closure of Joseph, but their ability to keep the additional staff in light of overall government funding cuts.

Federal Finding:

"The need for enhanced security personnel to conduct rounds and supervise juveniles is further heightened by design of many structures at the facility."

PHS Response:

PHS officials acknowledge that in Range Rider and Sundance there are structural blind spots in terms of the person in the control room not being able to see youth. They also acknowledge that having the doors of the youths' rooms open inward has been a problem in terms of youth barricading themselves into the room. The PHS Superintendent indicated that he will be proposing future structural modifications to change the doors and eliminate the control rooms in both Sundance and Range Rider. In both instances, the proposals will require structural renovations. Neither project is part of their LRBP package for the 1993 Legislature. The Superintendent also noted they are planning to construct partitions in the dorm area of Russell and Custer Lodges to establish two-person rooms. He indicated this project would be started within the next few months.

OLA Assessment:

The federal investigation accurately portrays some areas of concern regarding structural issues within the two high security lodges. Our review of incident reports and student grievance files indicated there are instances of student on student abuse. However, many of these instances occurred outside the lodges. The PHS Superintendent indicated they are somewhat limited in their ability to respond to more significant structural modifications without substantial funds from the legislature. As with many of the responses by PHS, they are placing a

great deal of reliance on the transfer of staff from Joseph Lodge to aid in their ability to temporarily deal with the issues related to structural limitations. At this point it is speculative whether this expanded staffing plan will continue to be funded beyond the end of the fiscal year.

## 2. Fire Safety, Sanitation, and other Building Hazards

### Federal Finding:

"Many of the structures comprising the facility itself present serious and immediate risks to juveniles confined there." Within the context of this finding they identified the following:

- A. Antiquated locking system.
- B. Deficiencies in the fire and smoke alarm system.
- C. Inadequate egress from buildings in case of fire.
- D. Flammable furniture and mattresses.
- E. General lack of cleanliness, including improper water temperatures in the food service's dishwasher.
- F. General maintenance at PHS to be grossly deficient.

### PHS Response:

The PHS Superintendent indicated they have replaced firehoses in all the lodges, moved the fire annunciator panel to a more appropriate location, added another fire annunciator panel, created fire escape plans, increased the number of fire drills, and have begun to replace flammable furniture. He noted they have requested LRBP money for both the locking system and for a sprinkler system for the lodges. He also noted they have painted many areas, removed old carpeting, and now involve maintenance in the treatment team meetings to allow quicker response to maintenance issues. He also noted the chief of maintenance has the dishwasher water temperature checked once a month. Overall, the PHS Superintendent believes they have responded to every issue brought up in this area.

### OLA Assessment:

During our review of the lodges, we verified the PHS responses regarding the specific allegations of the investigation team. This included reviews of the fire panels, checking of fire hoses and extinguishers, noting the existence of fire evacuation plans, and reviewing the documentation of fire drills. Overall, it became apparent PHS has responded to the fire safety issues. We also interviewed the Chief of Maintenance regarding the maintenance issues and determined they have responded appropriately to the cleanliness and general maintenance issues. We also noted there are no areas within the buildings which appear to be suffering from a general lack of maintenance. It is our opinion, that while the federal investigation did identify some significant issues, PHS has responded to those issues which could be immediately remedied. In addition, through their LRBP requests as well as plans for other structural changes within the lodges, they are making an active effort to address those areas where immediate changes were not possible.



### 3. Mental Health Care

#### Federal Finding:

"PHS provides grossly inadequate mental health services to juveniles with serious mental health needs. Deficiencies include insufficient psychiatric services, deficient nursing coverage, and misuse of psychotropic medications." They also noted, "the risk of suicide is especially high due to a combination of a lack of professional resources, coupled with a hazardous environment."

#### PHS Response:

The primary response by PHS has been to propose changes to the process which allows seriously mentally ill youth to be sent to PHS in the first place. They indicated they would be working with DFS Central Office staff to address this issue. The PHS Superintendent has noted they are not a mental health facility; however, they do have an obligation as part of their treatment process to provide professional help. In that regard, the treatment team concept has been developed and they are in the process of recruiting an additional professional person to supervise those treatment teams. Additionally, they have developed contracts with a psychologist, and sex offender therapist to aid staff in the treatment of youth. They also stated they were in the process of advertising for another half-time nursing position.

In relation to previous suicides and suicide attempts, they have removed the metal grates from the windows in Sundance and Range Rider and are working with a residential treatment provider in Billings to expand on-site screening for suicide potential.

#### OLA Assessment:

While PHS has made some attempt to address the issue of lack of professional mental health services via the consulting contracts, they do not appear to be adequate relative to what the federal investigation teams believe is required. The contracts provide for the professionals to give 2-3 hours a month of consulting services to the staff on campus. This is likely not an adequate substitute for full-time, direct care mental health services. To pay for these consultants, PHS is using funds allocated for a full-time psychologist position. To partially counter the lack of a psychologist position, they are recruiting for a professional who can provide a more treatment-based approach to supervision of the treatment teams. However, our review of prior recruiting efforts indicates it is difficult to retain the proposed type of professional PHS is seeking. If such a trend continues the contracted consulting services will not likely be considered adequate. DFS plans to address the issue of sending seriously mentally ill youths to the correctional facilities by seeking a legislative change in the Youth Court Act.

### 4. Misuse of Seclusion and Arbitrary Imposition of Discipline

#### Federal Finding:

"The use of seclusion and isolation as a form of discipline is arbitrary and indiscriminate." The consultant who reviewed the use of both seclusion and isolation found their use to be wholly unacceptable.



PHS Response:

The Superintendent has indicated they have changed their seclusion and isolation policy to mirror the fundamentals outlined in the American Corrections Association standards and changed their reporting standards regarding the use of isolation, seclusion, and restraint.

OLA Assessment:

We reviewed the student grievance files, and incident report files as well as the lodge log books in Sundance and Range Rider Lodges to evaluate the use of isolation, seclusion, and restraint. We also reviewed the existing policy on seclusion and isolation. Due to the lack of specifics in the federal report it was difficult to determine what their exact findings/concerns were. We reviewed the new policy and determined it does reflect ACA standards.

5. Restrictions on Access to Telephones and Writing Materials

Federal Finding:

"PHS arbitrarily limits access by youth to one incoming and one outgoing telephone call per month. Calls to their counsel are often denied. Access to writing materials is arbitrarily limited to 3 sheets of paper per week. These practices . . . appear to represent unusually harsh restrictions for which there is no justification."

PHS Response:

PHS officials stated the federal team either incorrectly read the existing policy and procedure manual regarding these issues, or they were misinformed by students and/or staff. The existing policies limit phone calls to one paid outgoing call per month and one incoming call. The policy for mail is the youth may send three pieces of general correspondence each week which PHS pays for, other correspondence must be paid by the youth unless it is directed to their legal counsel, or specified government officials.

OLA Assessment:

We reviewed the PHS policies on telephone calls and correspondence and determined the policies agree with the PHS response. We also reviewed student grievance files to determine if students had filed grievances regarding phone or mail privileges. We did not note any phone or mail related complaints by students. Based upon our review of the policy for phone calls, we determined there is a possibility for someone to misunderstand the policy. We recommended the confusing areas be clarified, and suggested PHS staff begin documenting all requests for phone calls.

Federal Findings - MVS

While the formal report has not yet been issued, based upon our observation of the federal team's investigation at MVS, we anticipate similar findings to those noted at PHS. Due to the timing of the on-site investigation at MVS, we were unable to fully assess or document what facility and procedural changes are proposed or have resulted from the verbal findings of the federal team. According to JCD officials, the investigation report is expected to be issued within the next one to two months.

### Summary

Due to the investigation report issuance date relative to when the investigation took place, PHS had already made or proposed a significant number of changes to address the federal government's concerns. As a result, it was difficult to make more than a general assessment of whether PHS has appropriately responded to all the issues identified. Consequently, while we believe the federal teams' findings were/are valid, we also believe PHS has, where possible, made a reasonable effort to address those findings.

However, if expansion of staff in the existing lodges is not maintained, the facility does not obtain funds to address the noted infrastructure concerns, or facility officials do not enforce the policy and procedural changes outlined, the possibility of further legal actions concerning PHS remains high. We also believe the informal findings of the federal MVS investigation suggest MVS facilities and operations could be subject to legal action as well.



